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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

NATHANIEL SATTERFIELD JR.)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 2014 CH 02607
)	
BENEFICIAL FINANCIAL I INC., HSBC)	Honorable
FINANCE CORP., HSBC HOLDINGS PLC,)	Brigid M. McGrath,
HSBC INVESTMENTS (NORTH)	Judge Presiding.
AMERICA) INC., HSBC BANK USA N.A.,)	
HSBC OVERSEAS HOLDING (UK))	
LIMITED, and all those claiming under)	
HSBC (Beneficial), the HSBC GROUP,)	
)	
Defendant-Appellee.)	

JUSTICE COBBS delivered the judgment of the court.

Presiding Justice McBride and Justice Howse concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court did not err in denying plaintiff's motion for default as a sanction or in granting defendant's motion to dismiss plaintiff's claims for trespass, intentional infliction of emotional distress, and common law fraud.

¶ 2 Plaintiff Nathaniel Satterfield appeals *pro se* the circuit court's order denying his motion for default and granting the motion of defendant Beneficial Financial I Inc. to dismiss plaintiff's second amended complaint pursuant to section 2-619.1 of the Code of Civil Procedure. 735 ILCS 5/2-619.1 (West 2012). On appeal, plaintiff contends that (1) "jurisdiction over a shell is unreasonable;" (2) "prescribing a non-resident shell company as the real party without disclosing the true principal should be considered outright fraud;" (3) and "the *pro se* plaintiff should have prevailed on his common law fraud claim." For the following reasons, we affirm.

¶ 3 **BACKGROUND**

¶ 4 This case is related to another action where defendant obtained a judgment of foreclosure and sale against plaintiff's mother, Mary Satterfield and his sister, Angela Satterfield for the property located at 1411 South 20th Avenue, Maywood, Illinois (property). As part of those foreclosure proceedings, Mary alleged that she had been victimized by defendant through a pattern of fraud and unfair dealings, unlawful eviction, harassment, and bad faith business dealings. The court denied Mary's claims and she appealed. On appeal, the trial court's judgments were affirmed. The details of those proceedings can be found in *Beneficial Illinois, Inc., d/b/a/ Beneficial Mortgage Company of Illinois v. Satterfield*, 2013 IL App (1st) 122470-U.

¶ 5 The record establishes the following facts. On February 13, 2014, plaintiff filed a complaint for intentional infliction of emotional distress (IIED), violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, and quiet title against Beneficial Financial Inc., Successor by Merger to Beneficial Illinois, Inc., d/b/a Beneficial Mortgage

Co. of Illinois, Beneficial, Member of HSBC Group, and all Parties Claiming under Beneficial Mortgage Co.

¶ 6 Plaintiff was not a party to the loan agreement, the mortgage, or the prior foreclosure proceedings related to the property. At no point did he have an ownership interest in the property. Rather, plaintiff alleged that he lived at the property with Mary and his elderly uncle and his claims are based on the alleged actions of defendant as it attempted to claim possession of the property. Specifically, he alleged that "a constant nuisance was created by the unwelcomed and repeated visits of strangers to the plaintiff's home, interrupting his rights of quiet enjoyment." He further alleged that there was a break-in on June 5, 2012, and that as a result, he suffered emotional distress. The complaint additionally stated that he developed Bell's Palsy from the stress of the foreclosure and subsequent eviction.

¶ 7 Defendant received the complaint on March 4, 2014, and filed a motion for extension of time to answer on March 31, 2014. In the motion, defendant stated that its proper legal name was Beneficial Financial I Inc. and that it had been incorrectly sued under a different name. After learning of defendant's correct legal name, plaintiff filed a motion for leave to file an amended complaint. Plaintiff attached a copy of the proposed amended complaint, in which he changed the named defendants to: "Beneficial Financial I Inc., HSBC Finance Corp., HSBC Holdings PLC, HSBC Investments (North America) Inc., HSBC Bank USA N.A., HSBC Overseas Holding (UK) Limited, and all those claiming under HSBC (Beneficial), the HSBC Group." Defendants did not object to the court granting plaintiff leave to file the amended complaint and responded with a motion to dismiss the amended complaint. Before a hearing on defendant's motion, plaintiff filed a motion for default against defendants.

¶ 8 On August 21, 2014, the court heard the motion to dismiss and the motion for default. The court dismissed the IIED and ICFA claims with leave to re-plead and dismissed the quiet title claim with prejudice because plaintiff did not establish that he ever had an ownership interest in the property. The motion for default was generally entered and continued. With the only equitable claim dismissed with prejudice, the court transferred this case from the Chancery Division to the Law Division. Thereafter, on August 29, 2014, plaintiff filed a Second Amended Complaint, which alleged intentional infliction of emotional distress, trespass, and common law fraud. Defendant responded by filing a motion to dismiss the Second Amended Complaint pursuant to section 2-619.1 of the Code. The motion to dismiss contended first that plaintiff did not allege facts necessary to support a trespass claim because he failed to allege ownership in the property. Second, the motion asserted that plaintiff's IIED claim must be dismissed for lack of standing, because the statute of limitations had run, and because plaintiff failed to state a claim. Specifically, defendant asserted that plaintiff could not bring a claim based on his mother and sister's missed mortgage payment and because he was not present at the property when it was allegedly broken into. Finally, defendant asserted that plaintiff's common law fraud claim must fail because he did not allege a relationship to defendant and because the claim is barred by the statute of limitations and *res judicata*. Specifically, defendant argued that the fraud claim was based on the same operative facts as his mother's fraud claim in the prior foreclosure action and involved the same parties in interest.

¶ 9 Initially, this case was assigned to the general law calendar and a briefing schedule was set; however, after the court reviewed the pleadings, it determined that the case belonged on the commercial calendar and was transferred a second time. The parties were notified and

directed to re-file their motions so that they could be scheduled on the new judge's calendar. On October 20, 2014, plaintiff filed a "Motion for Final Entry of Default Against the Defendant as a Sanction" pursuant to Illinois Supreme Court rule 137 (eff. July 1, 2013), Section 2-401(e) of the Code (735 ILCS 5/2-401 (e) (West 2012)), and the Assumed Business Name Act (805 ILCS 5/3.25 (West 2012)). Specifically, plaintiff contended that Beneficial Financial I Inc. was a fictitious name and "[t]he information ascertained from the previous foreclosure suit with respects [*sic*] to the real identity of the defendant turned out to be false." Plaintiff further argued that defendant insists that "Beneficial Financial I Inc. [is] the correct party defendant in this suit while implying that the foreign parent corporation, the real wrong doer, is being incorrectly sued." Additionally, plaintiff maintained that defendant failed to disclose its true identity and that it uses the name Beneficial Financial I Inc. to deceive the court and to "defraud plaintiff out of a remedy should he prevail."

¶ 10 On December 4, 2014, the court denied plaintiff's motion for default and granted defendant's motion to dismiss. Subsequently, plaintiff filed a motion to reconsider, which was denied.

¶ 11 ANALYSIS

¶ 12 Remarkably, plaintiff makes no argument regarding the substance of his claims on appeal. Instead, he urges us to address the "threshold issue that should raise whether or not the defendant should be entitled to an audience with this court, absent the real party, as a matter of law." Although plaintiff does not point us to the court's ruling below that he is appealing, we take his argument to be that the trial court erred when it denied his motion requesting a default as a sanction. The party requesting sanctions under rule 137 bears the burden of proving that the opposing party made untrue and false allegations without

reasonable cause. *Technology Innovation Center, Inc. v. Advanced Multiuser Technologies Corp.*, 315 Ill. App. 3d 238, 243 (2000). The court determines an appropriate sanction based on the circumstances of the case. *Id.* The decision to grant or deny a sanction under rule 137 is within the discretion of the trial court and it will not be overturned absent an abuse of that discretion. *Id.* at 244. Generally, entering a default as a sanction is a drastic action and should only be employed as a last resort. *Biscan v. Village of Melrose Park Board of Fire & Police Commissioners*, 277 Ill. App. 3d 844, 848 (1996).

¶ 13 Initially, we note that we do not have a transcript of the hearing or a bystander's report which contains the court's reasoning. Thus, we presume the order entered by the trial court was in conformity with the law and had a sufficient factual basis. *Wells Fargo Bank, N.A. v. Sanders*, 2015 IL App (1st) 141272, ¶ 23 (quoting *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391–92 (1984)). Additionally, plaintiff's argument that defendant is using a fictitious name in order to deceive the court and to avoid disclosing the true defendant so that the "real wrong doer" can avoid liability is belied by the record. We are sympathetic to the fact the relationships between corporate entities can be complex and hard to understand for a layperson. However, it is apparent that plaintiff intended to sue the entity involved in the foreclosure of his mother's property, which the record reveals was Beneficial Financial I Inc.

¶ 14 Moreover, plaintiff amended his complaint to expressly name defendant, Beneficial Financial I Inc. Accordingly, both the first and the second amended complaints explicitly name defendant. Plaintiff acknowledges defendant's active status with the Illinois Secretary of State and that, although it was incorporated in California and has foreign BCA status, it has a registered agent, president, and secretary in Illinois. It is simply illogical for plaintiff to assert that Beneficial Financial I Inc. is not a real defendant. Given these facts, plaintiff did

not meet his burden of establishing that that defendant made untrue or false statements in its pleadings.

¶ 15 We note that plaintiff's reliance on section 2-401(e) of the Code is misplaced. Plaintiff asserts that defendant appeared under a fictitious name and therefore it was required to show good cause. As discussed above, however, Beneficial Financial I Inc., is not a fictitious name. Moreover, as defendant points out, the purpose of that section of the Code is to provide a procedure for a party to appear in a case using a fictitious "Doe" pseudonym when necessary to protect the identity of certain parties (*A.P. v. M.E.E.*, 354 Ill. App. 3d 989, 1003 (2004); 735 ILCS 5/204(e) (West 2012)) and has no application in this matter. The Assumed Business Name Act similarly does not apply here. Under the Act, "[a] person shall not advertise or cause to be listed in a telephone directory an assumed or fictitious business name that intentionally misrepresents where the business is actually located or operating or falsely states that the business is located or operating in the area covered by the telephone director." 805 ILCS 5/3.25 (West 2012). Here, again, Beneficial Financial I Inc. is not a fictitious name and, as plaintiff acknowledges, information regarding defendant is readily available through the Illinois Secretary of State.

¶ 16 In addition, plaintiff's argument that defendant is merely a "dummy" or a "shell" and that its failure to disclose the "true defendant" constitutes fraud is not supported by an actual legal theory. Plaintiff's lengthy discussion on this matter is disjointed and virtually unintelligible. Although he includes citations to case law, the cases are misquoted and do not support his arguments. Other than the facts that defendant's name is slightly different from what plaintiff believed it to be — and that plaintiff became confused when defendant notified him of the correct name — it remains unclear precisely how defendant in this case is a "dummy" or

"shell" of the "true defendant." We note that Illinois Supreme Court Rule 341 requires parties to provide proper argument with citation to authority. Ill. S. Ct. R. 341 (h) (7) (eff. February 6, 2013). A *pro se* litigant must follow the same rules and procedures as a litigant represented by an attorney (*In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1067 (2009)), and may not "foist the burden of argument and research" onto this court. *Stenstrom Petroleum Services Group, Inc. v. Mesch*, 375 Ill. App. 3d 1077, 1098 (quoting *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993)). Therefore, we find no abuse of discretion in the trial court's denial of plaintiff's motion for default, as there is no legal or factual basis for plaintiff's assertion that Beneficial Financial I Inc. was not the true defendant.

¶ 17 Furthermore, plaintiff's argument that defendant should not "have an audience" in the circuit court is without reason. He provides numerous quotations concerning both general and specific personal jurisdiction as well as subject matter jurisdiction without directing the court to how it allegedly lacks jurisdiction in this case. Regardless of the exact nature of plaintiff's argument, it is evident that the court had jurisdiction over defendant. We note that usually it is a defendant who challenges the court's jurisdiction, not the plaintiff who chose the forum in which the lawsuit was filed. Significantly, here, defendant never objected to jurisdiction. After first filing a motion for an extension of time, it responded to the substance of plaintiff's allegations with a motion to dismiss. When a party files a responsive pleading in an action, it waives any jurisdictional challenge. 735 ILCS 5/2-301(a) (West 2012); *KSAC Corp. v. Recycle Free, Inc.*, 364 Ill. App. 3d 593, 595 (2006). Thus, even if defendant could have avoided defending this suit by challenging the court's jurisdiction, it accepted suit in the circuit court of Cook County.

¶ 18 The import of defendant's legal status as it relates to plaintiff is unclear. Plaintiff seems to assert that he cannot obtain a remedy because defendant is a "dummy" or a "shell." However, not only is it evident that Beneficial Financial I Inc is the "true defendant" but it is also apparent that plaintiff would not be able to successfully state a claim against any entity. The record reveals that plaintiff had no relationship with defendant, had no ownership interest in the property, was not present during the alleged break-in, and purported to allege a claim for fraud based on the same operative facts as his mother's claim in the prior action. Consequently, plaintiff is unable to establish the requisite elements for his IIED, trespass, and common law fraud claims and the court did not err in granting defendant's motion to dismiss.

¶ 19 CONCLUSION

¶ 20 For the following reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 21 Affirmed.