2017 IL App (1st) 161239-U

No. 1-16-1239

Order filed March 8, 2017

Third Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

RICHARD SALMAR and WENDY SMITH,	)	Appeal from the
	)	Circuit Court of
Plaintiffs-Appellants,	)	Cook County.
	)	
v.	)	No. 15 M1 119931
	)	
PAMELA JOZSA,	)	Honorable
	)	Jessica A. O'Brien,
Defendant-Appellee.	)	Judge, presiding.

JUSTICE PUCINSKI delivered the judgment of the court.
Presiding Justice Fitzgerald Smith and Justice Cobbs concurred in the judgment.

ORDER

¶ 1 *Held*: When the plaintiffs file in the appellate court a record that does not adequately support their factual assertions and arguments, the appellate court must affirm the trial court's judgment.

¶ 2 *Pro se* plaintiffs Richard Salmar and Wendy Smith appeal from the trial court's entry of judgment, following a trial, in favor of defendant Pamela Jozsa. On appeal, plaintiffs contend that the trial court failed to brief itself on the case, "so as to have some idea of the nature of the

law suit and what it was about" and that the allegations in their pleadings "are sufficient to state a nuisance noise complaint." We affirm.

¶ 3 The limited record on appeal establishes the following facts. Plaintiffs and defendant are neighbors. Defendant owns multiple dogs.

¶ 4 In 2015, plaintiffs filed a *pro se* complaint in the circuit court alleging that they spent "years *** trying to reason" with defendant, but that defendant had shown a disregard "for the law" and that "letters of communication" were "to no avail." Attached to complaint were letters dated 2011, 2013, 2014, and 2015 stating that the barking of defendant's dogs had created a public nuisance, that defendant had been asked to control the dogs' barking and that she had failed to do so. The 2015 letter stated that this was defendant's final "notice/reminder" about the "nuisance dog barking" and that the next step would be a court proceeding against defendant and her property. Plaintiffs then filed an amended complaint alleging that from "approximately 2004 to the present date, defendant has owned a number of dogs, all of which defendant has negligently or intentionally and unreasonably allowed to make loud noises at all times of the day and night." Plaintiffs sought a permanent injunction against defendant "prohibiting continuation of the nuisance," $10,000 in damages, and court costs.

¶ 5 Defendant filed a counterclaim through counsel that plaintiffs "should have known that verbal and physical attacks by them" directed at defendant and her pets "were likely to cause emotional distress." The counterclaim specifically alleged that plaintiffs screamed obscenities at defendant, sent a "number of threatening letters" to defendant regarding her dogs, attempted to poison the dogs with "hot dogs soaked in antifreeze," and filed a lawsuit against defendant.

¶ 6 The matter proceeded to trial on May 2, 2016. Following trial, the court entered judgment for defendant on plaintiffs' complaint and granted defendant's motion for a voluntary nonsuit on her counterclaim. Plaintiffs now appeal.

¶ 7 Initially, we note that defendant has not filed an appellee's brief. However, the record is simple and the claimed errors are such that we can easily decide this case without the aid of an appellee's brief. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 8 In the case at bar, plaintiffs have failed to comply with our supreme court's rules governing appellate court briefs in numerous respects. The brief does not contain a proper summary statement, introductory paragraph, or statement of the issues presented for review as required by Illinois Supreme Court Rule 341(h) (eff. Jan. 1, 2016).

¶ 9 Our review of plaintiffs' appeal is hindered by their failure to comply with our supreme court's rules. It is well established that a court of review is entitled to briefs that conform to supreme court rules. *Schwartz v. Great Central Insurance Co*., 188 Ill. App. 3d 264, 268 (1989) (appellants' briefs are to provide cohesive legal arguments in conformity with supreme court rules). Here, plaintiffs' brief is devoid of any citations to legal authority (see Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016)), and fails to explain what claims of error are being presented or exist on appeal. Additionally, the record on appeal does not include any reports or transcripts of the underlying proceedings and, therefore, the record could be considered inadequate to review this appeal. See, *e.g.*, *Landau & Associates, P.C. v. Kennedy*, 262 Ill. App. 3d 89, 92 (1994) (an appeal may be dismissed absent a proper record, even in a small claims case).

¶ 10 Plaintiffs' *pro se* status does not excuse them from complying with supreme court rules governing appellate procedure (*Coleman v. Akpakpan*, 402 Ill. App. 3d 822, 825 (2010)), and they are expected to meet a minimum standard before this court can adequately review the trial court's order (*Rock Island County v. Boalbey*, 242 Ill. App. 3d 461, 462 (1993)). Although a reviewing court is entitled to have all the issues clearly defined and be provided with coherent argument and citation to pertinent authority (Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016)), plaintiffs have failed to articulate a legal argument which would allow any meaningful review of his appeal. This court may, in its discretion, strike a brief and dismiss an appeal based on the failure to comply with the applicable rules of appellate procedure. *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 77.

¶ 11 Considering the form and content of both plaintiffs' brief and the record, it would be well within our discretion to dismiss the instant appeal. However, despite these shortcomings, we choose, in our discretion and in the interests of judicial economy, to review plaintiffs' claims. See *In re Estate of Jackson*, 354 Ill. App. 3d 616, 620 (2004).

¶ 12 Although plaintiffs' brief is largely a narrative of the case from their perspective, we are able to glean from the brief a challenge to the trial court's entry of judgment in favor of defendant because as plaintiffs presented their case to the court, "the trial judge was busy with the clerk shuffling court papers and other documents, stamping and signing." Plaintiffs further argue that the allegations in their complaint were "sufficient to state a nuisance noise claim," and that the trial court failed to "brief" itself on the instant case "so as to have some idea of the nature" of the case.

¶ 13 Here, plaintiffs appeal from the trial court's entry of judgment in favor of defendant following a trial. However, the record does not contain a transcript, report of proceedings, bystander's report or an agreed statement of facts regarding the May 2, 2016 trial. See Ill. S. Ct. R. 323 (eff. Dec. 13, 2005). Plaintiffs, as the appellants, have the burden to present a sufficiently complete record of the proceedings in the trial court to support a claim of error. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Any doubts arising from the incompleteness of the record will be resolved against plaintiffs. *Id*. at 392.

¶ 14 In light of the fact that the record does not contain a report of proceedings or other record of the trial, we have no basis for disturbing the trial court's judgment. *Id*. at 391-92. We do not know what evidence or arguments were presented, or the trial court's reasoning in entering its judgment. See *Corral v. Mervis Industries, Inc*., 217 Ill. 2d 144, 156 (2005). Because we have no meaningful record from which to review any claimed error (*id*. at 156-57), we presume that the court's ruling was entered in conformity with the law and was properly supported by evidence (*Foutch*, 99 Ill. 2d at 393).

¶ 15 Because the record on appeal does not support any of plaintiffs' allegations of trial court error and they have forfeited any other allegations of error by failing to argue them, we affirm the judgment of the circuit court of Cook County.

¶ 16 Affirmed.