

2012 IL App (1st) 120441-U

THIRD DIVISION
December 21, 2012

No. 1-12-0441

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

RUFUS REED,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 11 M1 71091
)	
RITA GEARLDS,)	Honorable
)	Leon Wool,
Defendant-Appellant.)	Judge Presiding.

JUSTICE STERBA delivered the judgment of the court.
Presiding Justice Neville and Justice Steele concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court's determination that plaintiff completed all work under a repair contract is presumed correct and properly supported by evidence due to defendant's failure to support her challenge with an adequate record and appellate brief.

¶ 2 Plaintiff Rufus Reed of R&R Home Remodeling filed a *pro se* action in small claims court against defendant Rita Gearlds, seeking to recover the balance due under a contract for repairs and improvements to residential property owned by defendant. The circuit court entered judgment in favor of plaintiff in the amount of \$1,300 and costs.

¶ 3 On appeal, defendant, *pro se*, challenges the circuit court's determination that plaintiff completed the repairs and improvements as specified under the contract. As defendant states in her appellate brief, "The reason for this appeal is to demonstrate to the court that the plaintiff has failed to perform the work as specified in the contract." However, our ability to review this challenge is hindered by defendant's failure to comply with the supreme court rules governing appellate procedure, which cannot be excused based on her *pro se* status. *Coleman v. Akpakpan*, 402 Ill. App. 3d 822, 825 (2010). *Pro se* litigants such as defendant are presumed to have full knowledge of applicable court rules and procedures, and compliance is mandatory. *In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1067 (2009).

¶ 4 Most apparent is the lack of a transcript, bystander's report, or agreed statement of facts as required by Supreme Court Rule 323 (eff. Dec. 13, 2005). It is well established that the appellant, in this case defendant, has the burden to present a sufficiently complete record. *In re Marriage of Gulla and Kanaval*, 234 Ill. 2d 414, 422 (2009). "An issue relating to a circuit court's factual findings and basis for its legal conclusions obviously cannot be reviewed absent a report or record of the proceeding." (Internal quotation marks omitted.) *Gulla*, 234 Ill. 2d at 422. Absent an adequate record preserving the claimed error, the reviewing court must presume the circuit court had a sufficient factual basis for its action and that it conforms with the law. *Id.*; *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). This principle is equally applicable to appeals from judgments in small claims cases. *Landau and Associates, P.C. v. Kennedy*, 262 Ill. App. 3d 89, 92 (1994).

¶ 5 The only materials in the record on appeal that remotely bear upon the merits of defendant's position are plaintiff's complaint, a handwritten docket entry in the court's records indicating that judgment was entered in favor of plaintiff in the amount of \$1,300 and costs, and the court's written order to that effect. Although the failure to present a report of proceedings

does not require automatic dismissal or affirmance where the issue can be resolved on the record as it stands, defendant's position, that "plaintiff has failed to perform the work as specified in the contract," is inherently factual and not amenable to review without a report of proceedings.

Landau and Associates, P.C., 262 Ill. App. 3d at 92.

¶ 6 Compounding her failure to provide this court with an adequate record is defendant's failure to informatively state the errors relied upon for challenging the circuit court's determination that plaintiff completed all work required by the contract (*Bank of Ravenswood v. Maiorella*, 104 Ill. App. 3d 1072, 1074 (1982)), and pertinent authority or a cohesive argument. Ill. S. Ct. R. 341(h)(6), (7) (eff. July 1, 2008). Defendant's appellate brief consists of 2½ pages of unsupported factual allegations and photographic exhibits, which she "neglected to present *** to the [circuit] court illustrating the incomplete work." Because assertions in an appellate brief cannot substitute for the record support required by Supreme Court Rule 323, we are unable to ascertain the accuracy of defendant's position. *Coombs v. Wisconsin National Life Insurance Co.*, 111 Ill. App. 3d 745, 746 (1982).

¶ 7 Under these circumstances, we conclude that the inadequacy of the record renders meaningful review of defendant's position impossible and requires that we affirm the judgment of the circuit court of Cook County. *Landau and Associates, P.C.*, 262 Ill. App. 3d at 92.

¶ 8 Affirmed.