

No. 1-13-1687

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 DISTRICT

MLCFC 2006-4 FEEHANVILLE OFFICE, LLC, an)	Appeal from the
Illinois limited liability company,)	Circuit Court of Cook County
)	
Plaintiff-Appellee,)	
)	
v.)	No. 12 CH 26043
)	
YPI KENSINGTON CORPORATE CENTER, LLC, a)	
foreign limited liability company, UNKNOWN OWNERS,)	Honorable Michael F. Otto,
and NON-RECORD CLAIMANTS,)	Judge Presiding.
)	
Defendant-Appellant.)	

JUSTICE SIMON delivered the judgment of the court.
Justices Pierce and Liu concurred in the judgment.

ORDER

¶ 1 *Held:* Trial court had jurisdiction over matter and parties and record did not demonstrate error in holding defendant in indirect civil contempt for failing to comply with receiver order by not cooperating with receiver or turning over required documents.

¶ 2 On July 11, 2012, plaintiff mortgagee filed a verified complaint for foreclosure and other relief against defendant mortgagor YPI Kensington Corporate Center, LLC, to foreclose a mortgage on a commercial property commonly known as 1660 Feehanville Drive, Mount

Prospect, Illinois, 60056. On January 22, 2013, the trial court entered an order appointing a receiver. Following defendant's noncompliance with the duties and disclosure responsibilities of the order, the trial court entered an order finding defendant in indirect civil contempt on May 6, 2013 (contempt order). Defendant now appeals that contempt order. For the following reasons, we affirm the judgment of the trial court and remand the matter for further proceedings.

¶ 3

I. BACKGROUND

¶ 4 The following facts are of record. On September 25, 2006, defendant entered into the underlying loan secured by a mortgage, assignment of leases and rents, security agreement, and fixture filing with Countrywide Commercial Real Estate Finance, Inc. That loan was amended on November 8, 2006. The interest in the note and mortgage on the property ultimately were assigned to plaintiff. On July 11, 2012, plaintiff filed a verified complaint for foreclosure and other relief against defendant mortgagor YPI Kensington Corporate Center, LLC, to foreclose the mortgage on a commercial property commonly known as 1660 Feehanville Drive, Mount Prospect, Illinois, 60056.

¶ 5 On January 22, 2013, the trial court entered an order appointing a receiver. The court subsequently approved the receiver's bond on February 13, 2013. Following defendant's noncompliance with the duties and disclosure responsibilities of the order, the trial court entered an order finding defendant in indirect civil contempt on May 6, 2013. In that contempt order the parties were all present and stipulated, *inter alia*, that the trial court had jurisdiction of the parties and the subject matter. Therefore, defendant failed to comply with the receiver order thereby impairing the rights and interests of plaintiff and impeding and obstructing the trial court in its administration of justice. Defendant appeals that order.

¶ 6

II. ANALYSIS

¶ 7 We begin by addressing plaintiff's argument that defendant's statement of facts should be disregarded for failure to comply with Illinois Supreme Court Rules. “[A] reviewing court is entitled to have the issues on appeal clearly defined with pertinent authority cited and a cohesive legal argument presented. The appellate court is not a depository in which the appellant may dump the burden of argument and research.” (Internal quotation marks omitted.) *Gandy v. Kimbrough*, 406 Ill. App. 3d 867, 875 (2010) (quoting *In re Marriage of Auriemma*, 271 Ill. App. 3d 68, 72 (1995)). Supreme Court Rules 341(h)(6) and (7) require a statement of the facts, with citation to the record necessary for an understanding of the case and a clear statement of contentions with supporting citation of authorities and pages of the record relied on. Ill. S. Ct. Rs. 341(h)(6), (h)(7) (eff. July 1, 2008). These rules are not merely suggestions, but are necessary for the proper and efficient administration of the courts. *First National Bank of Marengo v. Loffelmacher*, 236 Ill. App. 3d 690, 691-92 (1992).

¶ 8 We will not sift through the record or complete legal research to find support for this issue. The burden of a sufficient record falls on the appellant. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Issues that are ill-defined and insufficiently presented do not satisfy the rule and are considered waived. *Express Valet, Inc. v. City of Chicago*, 373 Ill. App. 3d 838, 855 (2007). In fact, for these violations, this court may not only strike portions of the brief or consider arguments waived, but strike a brief in its entirety and dismiss the matter. *Marengo*, 236 Ill. App. 3d at 692. Where the record is not complete, any doubts which might arise from the incompleteness of the record will be resolved against the appellant. *Foutch*, 99 Ill. 2d at 392. Further, “the reviewing court must presume the circuit court had a sufficient factual basis for its holding and that its order conforms with the law.” *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 157 (2005).

¶ 9 Defendant copies most of its appellant's brief verbatim from its April 3, 2013, response to plaintiff's petition for a mandatory order directing compliance with the receiver order and for rule to show cause. Consistent with prior deficiencies, we are also without the benefit of a reply brief by defendant to rebut plaintiff or provide any further discussion of the issues. More importantly, defendant has failed to provide any more than minimal legal support and virtually no analysis on appeal. Defendant's recitation of facts consists of ten sentences that are predominately mere citations to motions at trial or orders of the trial court. Half of these citations are to documents contained in the appendix to defendant's brief but are not contained in the record.

¶ 10 Defendant essentially advances four arguments on appeal: (1) the trial court was without jurisdiction to enter the order of indirect civil contempt; (2) because the receiver order was ineffective, the receiver had no authority to act and defendant could not be found to have willfully violated any court order; (3) the receiver's bond was not entered in accordance with the law; and (4) the party authorized to act as surety was not permitted to act as surety. With respect to the final two arguments, the record is incomplete and we must assume the facts and the trial court's actions conform with the law and those arguments are denied. *Corral*, 217 Ill. 2d at 157.

¶ 11 Defendant's first two arguments are founded on the claim that the trial court lacked jurisdiction to act because an interlocutory appeal challenging the receiver order was filed by defendant on January 23, 2013, thereby removing jurisdiction from the trial court to enter any further orders. No notice of appeal or other written record of this first appeal is of record, though the parties do not dispute that defendant appealed the receiver order. We note that this court's records indicate that appeal number 1-13-0326 involving the same parties and trial court number was filed January 23, 2013. After several extensions of time were granted without any brief

having been filed, this court dismissed appeal number 1-13-0326 for want of prosecution on September 30, 2013.

¶ 12 To the extent that defendant argues the circuit court lacked personal jurisdiction to enter the contempt order, defendant explicitly waived that issue. Defendant not only filed responsive pleadings after the notice of appeal was filed, the issue of personal jurisdiction was explicitly waived by stipulating in the contempt order that "the Court has jurisdiction of the parties and the subject matter." See 735 ILCS 5/2-301(a) (eff. January 1, 2000). Defendant's appellate brief is silent as to this stipulation.

¶ 13 The issue of subject matter jurisdiction cannot be waived by a party and may be raised at any time. However, there is no record of any motion to stay trial proceedings during the pendency of the appeal (No. 1-13-0326) or the order appointing receiver and defendant's subject matter jurisdiction claim fails. Under Rule 305(b) (Ill. S. Ct. R. 305(b) (eff. July 1, 2004)), the court has the discretion to grant a stay pending the appeal of an interlocutory order, but it is not automatic and the court is not required to grant a motion to stay if it is presented. *City of Chicago v. Cosmopolitan National Bank of Chicago*, 77 Ill. App. 3d 212, 220 (1979). Where a stay has not been granted, the trial court maintains jurisdiction and must only refrain from entering an order changing or modifying the substantive issues appealed or interfering with the appellate review of the order being appealed. *R.W. Dunteman Co. v. C/G Enterprises, Inc.*, 181 Ill. 2d 153, 163 (1998).

¶ 14 In the instant matter, with defendant's failure to request the court to stay the action, the trial court maintained jurisdiction and the action continued. The trial court did not substantively modify or change the receiver order, but simply acted in enforcing the receiver order consistent with the law. *In re Marriage of Ward*, 267 Ill. App. 3d 35, 44 (1994). Accordingly, defendant's

argument that the trial court lacked authority to enter the contempt order fails. Not having been presented any reason to overcome the presumption that the trial court correctly followed the law in finding defendant in indirect civil contempt, we affirm that ruling.

¶ 15

III. CONCLUSION

¶ 16 For the reasons stated, we affirm the judgment of the circuit court and remand for further proceedings.

¶ 17 Affirmed and remanded.