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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

U.S. BANK NATIONAL ASSOCIATION,)	Appeal from the Circuit Court
)	of Du Page County.
Plaintiff-Appellee,)	
)	
v.)	No. 09-CH-1790
)	
MONIKA SPOKAS,)	
)	
Defendant-Appellant,)	
)	
(Robertas Spokas, CitiBank, N.A., Braemoor)	
Area Property Owners' Association, Mortgage)	
Electronic Registration Systems, Inc., and)	Honorable
Unknown Owners and Nonrecord Claimants,)	Robert G. Gibson,
Defendants).)	Judge, Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Presiding Justice Burke and Justice Spence concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court's orders denying defendant's motion to quash service of process and motion for reconsideration were affirmed where defendant forfeited her argument that section 15-1505.6 of the Illinois Mortgage Foreclosure Law does not apply retroactively.

¶ 2 In this mortgage foreclosure case, defendant, Monika Spokas, appeals from the trial court's orders denying her motion to quash service of process and her motion for

reconsideration. For the reasons that follow, we affirm.

¶ 3

I. BACKGROUND

¶ 4 On April 3, 2009, plaintiff, U.S. Bank National Association, filed a mortgage foreclosure complaint against defendant, among others. A summons was issued for service that same day, but defendant was not identified on the face of the summons. Instead, the caption on the summons said “U.S. Bank National Association vs. Robertas Spokas; et al.” Additionally, the summons was left blank in the space where plaintiff was directed to list defendant’s name. However, attached to the summons, immediately after the homeowner notice required by section 15-1504.5 of the Illinois Mortgage Foreclosure Law (IMFL) (735 ILCS 5/15-1504.5 (West 2012)), was a document stating: “**PLEASE SERVE THE FOLLOWING DEFENDANTS AT THE FOLLOWING ADDRESSES:** *** Monika Spokas (0201), 8467 Dolfor Cove, Burr Ridge, IL 60527 (Du Page).” (Emphasis in original.) Defendant was personally served on April 5, 2009, by a special process server.

¶ 5 Defendant did not file an appearance in the action. However, she showed up in court on August 24, 2009, when the matter came before the court on plaintiff’s motions for default and judgment of foreclosure and sale. At that time, plaintiff withdrew its motions in order to file an amended complaint adding a party defendant. Defendant then personally advised the court that she had entered into a contract to sell the property at issue and requested a continuance. The court continued the matter to October 26, 2009. There is no indication in the record that defendant was in court on October 26, 2009. On that date, the court entered and continued plaintiff’s motion for default judgment and granted defendant Robertas Spokas leave to answer the complaint or otherwise plead.

¶ 6 Defendant did not appear in court again for over three years. On March 5, 2010, a default judgment was entered against her. Plaintiff purchased the property at a judicial sale on March 1, 2012, and the trial court confirmed the sale on March 16, 2012.

¶ 7 On February 20, 2013, defendant filed her appearance through counsel and moved to quash service of process pursuant to section 2-301 of the Code of Civil Procedure (Code) (735 ILCS 5/2-301 (West 2012)). Defendant argued that the trial court lacked personal jurisdiction over her because the service of process in April 2009 was defective, and she requested that the court set aside any orders or judgments entered against her. Specifically, she insisted that, contrary to the requirements of Illinois Supreme Court Rule 101 (eff. May 30, 2008), service was not directed to her and she was not named in the caption on the summons.

¶ 8 On February 27, 2013, the trial court denied defendant's motion to quash service of process. The written order indicates that the motion was denied "pursuant to 735 ILCS 5/1505.6 [sic] as Monika Spokas previously appeared on 8/24/09." Section 15-1505.6(a) of the IMFL provides that the deadline for filing a motion to quash service of process on the basis of personal jurisdiction in a residential foreclosure action, "unless extended by the court for good cause shown, is 60 days after the earlier of these events: (i) the date that the moving party filed an appearance; or (ii) the date that the moving party participated in a hearing without filing an appearance." 735 ILCS 5/15-1505.6(a) (West 2012). The record on appeal does not contain a transcript of the February 27, 2013, hearing.

¶ 9 Defendant filed a three-page motion for reconsideration on March 5, 2013. She noted that section 15-1505.6 of the IMFL became effective on August 12, 2011, which was after she appeared in court on August 24, 2009. She argued that "[n]othing in the plain reading of the

statute suggests that it was the legislature's intent to make the requirements of 735 ILCS 5/15-1505.6 retroactive," but she did not cite any case law to support this proposition.

¶ 10 The trial court denied defendant's motion for reconsideration on May 22, 2013. Although the record on appeal does not contain a report of the proceedings, the written order reflects that the court concluded that "the change in law was procedural not substantive, and therefore the change should be applied [*sic*] retroactively."

¶ 11 Defendant timely appeals from the trial court's orders of February 27, 2013, and May 22, 2013.

¶ 12 **II. ANALYSIS**

¶ 13 We must first address plaintiff's request to dismiss this appeal for want of prosecution. The cover sheet of the appellant's brief is labeled "BRIEF OF DEFENDANT-APPELLANT-ROBERTA [*sic*] SPOKAS." It also indicates that the brief was filed by the law firm of Leading Legal LLC as "Attorney for Defendant-Appellant Roberta [*sic*] Spokas." However, Robertas Spokas did not file a notice of appeal, and Leading Legal LLC filed its appearance in this court as counsel for Monika Spokas, not Robertas Spokas. Unfortunately, defendant has opted not to file a reply brief to clear up the confusion. Nevertheless, it is apparent from the record and from the appellant's brief itself that these were careless errors on the part of defendant's counsel. Specifically, Robertas Spokas has not participated in the proceedings since March 2010, and the appellant's brief raises arguments that are personal to Monika. Plaintiff has not directed our attention to any authority which would require us to dismiss the appeal under these circumstances.

¶ 14 Turning to the merits of the appeal, defendant argues: (1) she requested an extension of time on August 24, 2009, which was specifically allowed under section 2-301(a) of the Code; (2)

the court erred in concluding that section 15-1505.6 of the IMFL applies retroactively; and (3) her motion to quash should have been granted on the merits.

¶ 15 Regardless of the label, a motion seeking relief from a final judgment brought more than 30 days from the judgment's entry is a motion pursuant to section 2-1401 of the Code (735 ILCS 5/2-1401 (West 2012)). *Sarkissian v. Chicago Board of Education*, 201 Ill. 2d 95, 102 (2002). Where a trial court dismisses a section 2-1401 petition without holding an evidentiary hearing, we review the court's order *de novo*. *MB Financial Bank, N.A. v. Ted & Paul, LLC*, 2013 IL App (1st) 122077, ¶ 12 (citing *People v. Vincent*, 226 Ill. 2d 1, 18 (2007)). We also review *de novo* issues of whether the trial court obtained personal jurisdiction over a defendant (*C.T.A.S.S.&U. Federal Credit Union v. Johnson*, 383 Ill. App. 3d 909, 910 (2008)) and whether a statute applies retroactively (see *Allegis Realty Investors v. Novak*, 223 Ill. 2d 318, 330 (2006) (“*De novo* review likewise guides our consideration of the meaning and effect of statutory provisions.”)).

¶ 16 We review a trial court's disposition of a motion for reconsideration for abuse of discretion. *Shulte v. Flowers*, 2013 IL App (4th) 120132, ¶ 24. However, abuse of discretion is “a versatile standard of review in that, depending on what the underlying issue is, it can lead to other standards of review.” *Shulte*, 2013 IL App (4th) 120132, ¶ 22. Where, as in this case, the underlying issues are legal rather than factual, “we will proceed *de novo*.” *Shulte*, 2013 IL App (4th) 120132, ¶ 24.

¶ 17 Section 15-1505.6 of the IMFL provides:

“(a) In any residential foreclosure action, the deadline for filing a motion to dismiss the entire proceeding or to quash service of process that objects to the court's jurisdiction over the person, unless extended by the court for good cause shown, is 60

days after the earlier of these events: (i) the date that the moving party filed an appearance; or (ii) the date that the moving party participated in a hearing without filing an appearance.

(b) In any residential foreclosure action, if the objecting party files a responsive pleading or a motion (other than a motion for an extension of time to answer or otherwise appear) prior to the filing of a motion in compliance with subsection (a), that party waives all objections to the court's jurisdiction over the party's person." 735 ILCS 5/15-1505.6 (West 2012).

This section was added to the IMFL by Public Act 97-329 and became effective on August 12, 2011. The parties here do not dispute that defendant "participated in a hearing" on August 24, 2009, within the meaning of the statute. However, they disagree whether this provision applies retroactively. If it does, then defendant's motion to quash service of process, which was filed more than 60 days after her appearance in court, was untimely.

¶ 18 In *Commonwealth Edison Co. v. Will County Collector*, 196 Ill. 2d 27, 39 (2001), our supreme court adopted the retroactivity analysis set forth by the Supreme Court of the United States in *Landgraf v. USI Film Products*, 511 U.S. 244 (1994). The supreme court has subsequently explained the proper framework as follows:

"The *Landgraf* analysis consists of two steps. First, if the legislature has expressly prescribed the statute's temporal reach, the expression of legislative intent must be given effect absent a constitutional prohibition. Second, if the statute contains no express provision regarding its temporal reach, the court must determine whether the new statute would have retroactive effect, keeping in mind the general principle that prospectivity is the appropriate default rule. In making this determination, a court will consider whether

retroactive application of the new statute will impair rights a party possessed when acting, increases a party's liability for past conduct, or impose new duties with respect to transactions already completed. If retrospective application of the new law has inequitable consequences, a court will presume that the statute does not govern absent clear legislative intent favoring such a result." *Allegis Realty Investors*, 223 Ill. 2d at 330-31.

However, Illinois courts "need never go beyond step one of the *Landgraf* test," because "the legislature will always have clearly indicated the temporal reach of an amended statute, either expressly in the new legislative enactment or by default in section 4 of the Statute on Statutes." *Allegis Realty Investors*, 223 Ill. 2d at 332. This provision states, in relevant portion:

"No new law shall be construed to repeal a former law, whether such former law is expressly repealed or not, as to any offense committed against the former law, or as to any act done, any penalty, forfeiture or punishment incurred, or any right accrued, or claim arising under the former law, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture or punishment so incurred, or any right accrued, or claim arising before the new law takes effect, save only that the proceedings thereafter shall conform, so far as practicable, to the laws in force at the time of such proceeding." 5 ILCS 70/4 (West 2012).

Courts have interpreted this provision as establishing that "amendments that are procedural may be applied retroactively, while those that are substantive may not." (Internal quotation marks omitted.) *In re Marriage of Duggan*, 376 Ill. App. 3d 725, 728 (2007).

¶ 19 Plaintiff, in both the trial court and in this court, has crafted its arguments under the appropriate standards: *i.e.*, addressing *Landgraf* and its progeny and providing case law to

support that the changes brought about by section 15-1505.6 of the IMFL are procedural rather than substantive. Unfortunately, defendant has not done the same. Defendant cited no authority in the trial court to support her argument that the statute applies only prospectively. On appeal, defendant even goes so far as to suggest that we ignore the framework adopted by our supreme court, stating:

“The primary reasoning that Appellee provided in order to rationalize its argument that Sec. 15-1505.6 is retroactive in nature relied heavily on [*Landgraf*]. However, it is incumbent upon each Court to make decisions and rulings in accordance with the case law of the state and the stated intentions of the legislature of that State. It is far too cumbersome to expect defendants to abide by fictitious and or future interpretations of the law.”

Our supreme court has articulated the relevant framework for evaluating whether a statute applies retroactively, and defendant makes no attempt to advance an argument within that framework. Furthermore, defendant declined the opportunity to file a reply brief in either the trial court or in this court to address plaintiff’s arguments under *Landgraf* and its progeny. To address the question of whether the statute at hand applies retroactively would require us to fashion a proper legal argument for defendant and then assess the merits of that hypothetical argument. We decline to “do [defendant’s] homework for [her] and then grade it as well.” (Internal quotation marks omitted.) *Rago Machine Products, Inc. v. Shields Technologies, Inc.*, 233 Ill. App. 3d 140, 147 (1992).

¶ 20 Illinois Supreme Court Rule 341(h)(7) (eff. Feb. 6, 2013) requires appellants’ briefs to include “[a]rgument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on.” An appellant

forfeits its arguments by failing to present a cogent legal analysis under appropriate legal standards. See *King's Health Spa, Inc. v. Village of Downers Grove*, 2014 IL App (2d) 130825, ¶ 58 (party forfeited its due process argument by failing to present a meaningful procedural or substantive due process challenge).

¶ 21 None of defendant's authorities address the issue of whether newly-enacted legislation applies retroactively. Defendant relies heavily on *BAC Home Loans Servicing, LP v. Mitchell*, 2014 IL 116311, but that case addressed an entirely different question: whether waiver of personal jurisdiction under section 2-301(a) of the Code applies retroactively to validate prior court orders. In other words, *Mitchell* considered whether a litigant's conduct had retrospective implications to orders previously entered, not whether legislation applied retroactively. Accordingly, defendant's attempts to analogize the case to *Mitchell* ring hollow.

¶ 22 Defendant also notes that Senator Dillard proposed an amendment to House Bill 1960, the bill that ultimately became Public Act 97-329. The amendment would have included language indicating that the legislation applies prospectively only. Defendant argues: "The subsequent non-inclusion of [the proposed amendment] is equally unclear to determine legislative intent; however, the legislative history remains clear that at least one Senator intended the statute to work prospectively and not retroactively." Defendant cites no authority, and we are aware of none, supporting that a proposed amendment which was not adopted is in any way relevant to a retroactivity analysis.

¶ 23 Accordingly, we hold that defendant has forfeited her argument as to whether section 15-1505.6 of the IMFL applies retroactively by failing to cite relevant authority and present a cogent legal analysis under the standards established by our supreme court. Because defendant has

forfeited her retroactivity argument, we need not address the other arguments raised by the parties, and we affirm the trial court's orders.

¶ 24

III. CONCLUSION

¶ 25 For the reasons stated, we affirm.

¶ 26 Affirmed.