

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).

FILED

October 22, 2014
Carla Bender
4th District Appellate
Court, IL

2014 IL App (4th) 140038-U

NO. 4-14-0038

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FEDERAL NATIONAL MORTGAGE ASSOCIATION,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Champaign County
ROBERT MABUS and GINGER MABUS,)	No. 12CH87
Defendants-Appellants.)	
)	Honorable
)	Michael Q. Jones,
)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.
Presiding Justice Appleton and Justice Turner concurred in the judgment.

ORDER

- ¶ 1 *Held:* The appellate court found defendants forfeited their argument on appeal for failing to comply with Illinois Supreme Court Rule 341 (eff. Feb. 6, 2013).
- ¶ 2 In February 2012, plaintiff, Federal National Mortgage Association (Fannie Mae), filed a complaint to foreclose a mortgage on the property owned by defendants, Robert and Ginger Mabus. In April 2013, the trial court granted summary judgment in favor of Fannie Mae. In May 2013, defendants filed a motion to reconsider, which the court denied in August 2013. In January 2014, defendants filed a "Motion to File Injunction Relief, Complaint Against Plaintiff, and Demand Jury Trial." The same month, the trial court denied defendants' "motion."
- ¶ 3 On appeal, defendants argue the trial court erred in granting summary judgment in favor of Fannie Mae. As best we understand, defendants contend (1) the trial judge failed to

follow certain Illinois Supreme Court rules; (2) the trial judge should have ordered mediation; (3) they were denied due process; and (4) Fannie Mae and Bank of America committed various crimes. We note Bank of America was not a party to the foreclosure action and is not a party to this appeal. We find defendants have forfeited their argument for failure to comply with Illinois Supreme Court Rule 341 (eff. Feb. 6, 2013) and affirm.

¶ 4

I. BACKGROUND

¶ 5 In February 2012, Fannie Mae filed a complaint to foreclose a mortgage on the property owned by defendants on South Century Boulevard in Rantoul. In March 2012, defendants filed a *pro se* answer. In April 2013, Fannie Mae filed a motion for summary judgment and a motion for judgment for foreclosure and sale. The same month, the trial court granted Fannie Mae's motion for summary judgment and entered a judgment for foreclosure and sale. In May 2013, defendants, through an attorney, filed a motion to reconsider. In August 2013, the trial court denied defendants' motion to reconsider. The next month, defendants appealed *pro se*. In November 2013, this court dismissed defendants' appeal for failure to file a docketing statement. *Federal National Mortgage Ass'n v. Mabus*, No. 4-13-0826 (Nov. 26, 2013).

¶ 6

In January 2014, defendants filed a *pro se* "Motion to File Injunction Relief, Complaint Against Plaintiff, and Demand Jury Trial." In this document, defendants asserted Fannie Mae (1) committed perjury for submitting false information to the trial court, (2) committed theft for taking money from their account, (3) committed a breach of contract by adding late charges and giving inconsistent answers to defendants, (4) breached the implied covenant of good faith and fair dealing, and (5) breached a fiduciary duty. Defendants also

assert Bank of America violated various consumer protection laws.

¶ 7 On January 10, 2014, the trial court denied defendants' "motion." The court noted defendants' "motion" was not a freestanding lawsuit but filed within the original foreclosure proceeding. The court also noted some of the counts could be considered affirmative defenses but the procedural posture of the case prevented consideration of these defenses.

¶ 8 This appeal followed.

¶ 9 II. ANALYSIS

¶ 10 A. Fannie Mae's Jurisdictional Argument

¶ 11 Before we address defendants' argument, we first consider Fannie Mae's argument this court does not have jurisdiction because the notice of appeal is defective. In January 2014, defendants filed a *pro se* notice of appeal stating January 13, 2014, as the date of the judgment appealed. In May 2014, Fannie Mae filed a motion to dismiss the appeal as no judgment was entered on January 13, 2014. In June 2014, defendants filed a *pro se* motion to amend the notice of appeal and an amended notice of appeal stating January 10, 2014, as the date of the judgment appealed. This court allowed the motion to amend.

¶ 12 We decline to dismiss this appeal as the amended notice of appeal complies with Illinois Supreme Court Rule 303(b)(2) (eff. June 4, 2008). We agree with Fannie Mae our review is limited to the January 10, 2014, order and does not extend to the underlying foreclosure proceedings.

¶ 13 B. Defendants' Arguments

¶ 14 Defendants argue the trial court erred in granting summary judgment in favor of Fannie Mae. As best we understand, defendants contend (1) the trial judge failed to follow

certain Illinois Supreme Court rules; (2) the trial judge should have ordered mediation; (3) they were denied due process; and (4) Fannie Mae and Bank of America committed various crimes. Fannie Mae responds defendants' brief fails to comply with Rule 341.

¶ 15 We agree defendants' brief fails to comply with the requirements of Rule 341. A reviewing court is entitled to have all the issues clearly defined and be provided with meaningful argument. *People ex rel. Illinois Department of Labor v. E.R.H. Enterprises, Inc.*, 2013 IL 115106, ¶ 56, 4 N.E.3d 1. It "is not simply a depository into which a party may dump the burden of argument and research." *Id.* Appellate briefs which do not satisfy Rule 341 "do not merit consideration on appeal and may be rejected for that reason alone." *Housing Authority of Champaign County v. Lyles*, 395 Ill. App. 3d 1036, 1040, 918 N.E.2d 1276, 1280 (2009).

¶ 16 In their brief, under the section titled "Statement of Facts," defendants include such allegations as (1) the default date "was purposely set to deny" defendants the use of a new law, which is not identified; and (2) Fannie Mae committed perjury because it "willfully and wantonly submitted false information as fact." This does not comply with Rule 341(h)(6), which provides an appellate brief must contain a statement of facts with the facts "stated accurately and fairly without argument or comment." Ill. S. Ct. R. 341(h)(6) (eff. Feb. 6, 2013). Defendants list five questions as issues on appeal but do not provide argument to answer these questions. Rather, defendants list various citations to and quotations from various Illinois Supreme Court rules, state and federal criminal statutes, state regulatory statutes, and the Illinois and federal constitutions. This does not comply with Rule 341(h)(7). See *Vancura v. Katris*, 238 Ill. 2d 352, 370, 939 N.E.2d 328, 340 (2010) ("An issue that is merely listed or included in a vague allegation of error is not 'argued' and will not satisfy the requirements of the rule."). Defendants'

failure to provide anything beyond bare contentions and citations leaves this court without a coherent argument to consider. They have forfeited consideration of their argument.

¶ 17 Defendants' "motion," which argued for the foreclosure judgment to be set aside, was filed approximately five months after the trial court denied their motion to reconsider. This was not a proper way to attack the underlying foreclosure judgment. See generally *Wells Fargo Bank, N.A. v. McCluskey*, 2013 IL 115469, ¶¶ 25-27, 999 N.E.2d 321. Although defendants have largely proceeded through this litigation *pro se*, they are not entitled to challenge the foreclosure judgment without following the proper procedural process. See *In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1067, 916 N.E.2d 45, 57 (2009) ("*pro se* litigants are presumed to have full knowledge of applicable court rules and procedures and must comply with the same rules and procedures as would be required of litigants represented by attorneys"). We also expressly reject defendants' assertion this court should decide whether criminal charges against Fannie Mae are appropriate. This is a foreclosure proceeding, not a criminal action. Moreover, this court is not the appropriate authority to make such a decision.

¶ 18 III. CONCLUSION

¶ 19 We affirm the trial court's judgment.

¶ 20 Affirmed.