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SECOND DIVISION
ORDER FILED AUGUST 3, 2010
MODIFIED ORDER JUNE 28, 2011

1-09-1039

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

RYSZARD BARAN AND RICHARD HEATING)	Appeal from the
AND COOLING, INC.,)	Circuit Court of
)	Cook County.
Plaintiffs-Appellants,)	
)	
v.)	No. 08 M4 1975
)	
EDWARD WASILEWSKI,)	Honorable
)	Cheryl D. Ingram, ¹
Defendant-Appellee,)	Judge Presiding.

PRESIDING JUSTICE CUNNINGHAM delivered the judgment of the court.
Justices Karnezis and Connors² concurred in the judgment.

ORDER

Held: The circuit court's order entering judgment for defendant is null and void where a plaintiff corporation could not appear in the circuit court proceedings without legal representation. Further, plaintiffs have provided no basis for evaluating their claims

¹The record before this court shows that the circuit court half sheet reflects that Judge Cheryl Ingram presided over the proceedings of this case on December 22, 2008, February 23, 2009 and March 23, 2009. However, the March 23, 2009 order entering final judgment for defendant bears the signature of Judge James Shapiro of the circuit court. Thus, we note that the circuit court judge who entered final judgment on March 23, 2009 in this case was in fact not Judge Cheryl Ingram.

²Justice Theis concurred in the original August 3, 2010 filed order, but had since been appointed to the Illinois Supreme Court. Justice Connors, who has reviewed the facts and the records of this case, concurs in this modified order.

for the relief requested.

Plaintiffs, Ryszard Baran (Baran) and Richard Heating and Cooling, Inc., appeal *pro se* from an order from the circuit court of Cook County entering judgment in favor of defendant, Edward Wasilewski, in their breach of contract action. On appeal, plaintiffs contend that the circuit court erred in holding that the Home Repair and Remodeling Act (815 ILCS 513/1 *et seq.* (West 2008)) applied to defendant's refusal to pay for work performed under their oral contract. Defendant has not filed a brief in response; however we may proceed under the principles set forth in First Capitol Mortgage Corp. v. Talandis Construction Corp., 63 Ill. 2d 128, 133 (1976).

The common law record filed on appeal shows that on October 22, 2008, plaintiffs filed a *pro se* complaint alleging that they entered an oral contract with defendant on November 11, 2003, for the installation of a commercial HVAC system at a cost of \$8,500. Plaintiffs further alleged that on November 22, 2003, the work specified in the contract was completed, and that defendant had breached the contract by failing to pay for the services rendered.

The record also shows that defendant was served with summons on November 3, 2008, which had a return date of November 21, 2008. Defendant did not timely respond, but on December 22, 2008, the circuit court granted defense counsel's motion to vacate any defaults and to file an appearance on behalf of defendant. The memorandum order shows that the case was continued to February 23, 2009, when the circuit court ordered plaintiffs to provide defense counsel with a copy of the contract no later than March 9, 2009, and also set the case for trial on March 23, 2009. The memorandum order for March 23, 2009, shows that the circuit court entered judgment for defendant after granting his motion for a directed finding. This appeal followed.

Proceeding *pro se* on appeal, Baran identifies "Plaintiffs" as himself and the corporation, Richard Heating and Cooling, Inc., and asserts that "he" was entitled to compensation for the work "he" performed under the contract with defendant. We observe that Supreme Court Rule 282(b) provides, in pertinent part, that "[n]o corporation may appear as claimant, assignee, subrogee or counterclaimant in a small claims proceeding, unless represented by counsel." 177 Ill. 2d R. 282(b). Thus, any case initiated by a corporation without an attorney is null and void *ab initio*. Siakpere v. City of Chicago, 374 Ill. App. 3d 1079, 1081 (2007).

Here, the common law record shows that Baran filed the complaint on behalf of himself and the corporation, and appeared *pro se* in the circuit court. There is no indication, however, that Baran is an attorney. In addition, the final written order entered by the circuit court on March 23, 2009, reflects the presence of plaintiffs, defendant, and defense counsel, but no reference to any counsel for plaintiffs. Under these circumstances, where Baran, a nonattorney, appeared on behalf of the corporation, the proceedings were void *ab initio*, and we must treat the circuit court's decision as null and void. Adair Architects, Inc., v. Bruggeman, 346 Ill. App. 3d 523, 525-26 (2004).

Moreover, even if this were not the case, we could not review the claimed error to determine whether the circuit court's findings were against the manifest weight of the evidence, or consider the legal effect of its findings, due to the inadequate nature of the record filed on appeal. Corral v. Mervis Industries Inc., 217 Ill. 2d 144, 156 (2005). The issue raised relates to the circuit court's factual findings and basis for its legal conclusions, and cannot be reviewed absent a record or an adequate report of the proceeding. Corral, 217 Ill. 2d at 156. Plaintiffs provided no transcript of the proceedings, or an acceptable substitute (210 Ill. 2d R. 323) in the form of a bystander's report

(People v. Cunningham, 309 Ill. App. 3d 824, 830 (1999)), nor agreed statement of facts (People v. Morales, 343 Ill. App. 3d 987, 989 (2003)). Therefore, the attachments to plaintiffs' brief which are not otherwise contained in the record, are not properly before this court and cannot be used to supplement the record (People v. Lutz, 103 Ill. App. 3d 976, 979 (1982)).

Accordingly, plaintiffs have provided no basis for evaluating their claims for the relief requested. For the reasons stated above we reverse the order of the circuit court of Cook County as null and void.

Reversed.