

2013 IL App (1st) 121236

FOURTH DIVISION  
May 9, 2013

No. 1-12-1236

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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ASTORIA PROPERTIES, LLC,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	12 M1 700909
	)	
VERA HOWARD,	)	The Honorable
	)	Sheldon C. Garber,
Defendant-Appellant.	)	Judge Presiding.

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JUSTICE FITZGERALD SMITH delivered the judgment of the court.  
Presiding Justice Lavin and Justice Epstein concurred in the judgment.

**ORDER**

¶ 1 *Held:* Grant of motion for summary judgment affirmed where appellant failed to meet the minimum standard required for appellate review.

¶ 2 Plaintiff, Astoria Properties, LLC, filed a forcible entry and detainer action against defendant, Vera Howard, seeking possession of the premises specified in the complaint and for rent and damages of \$4,120 plus amounts accruing through the date of trial. The trial court subsequently granted plaintiff's motion for summary judgment, and defendant, *pro se*, now appeals that ruling.

¶ 3 The common law record filed on appeal shows that plaintiff filed this action against defendant on January 12, 2012, and defendant filed her appearance on February 28, 2012. On March 6, 2012, the trial court allowed plaintiff to file its motion for summary judgment *instantly*. Thereafter, defendant filed a *pro se* response and a counter complaint, contending that plaintiff had made various false statements and had falsified the lease submitted to the trial court.

¶ 4 On April 23, 2012, the court granted plaintiff's motion for summary judgment, and also granted possession of the premises to plaintiff and ordered defendant to pay \$6,592. That same day, defendant filed notice of appeal from that judgment. Thereafter, plaintiff filed a motion to strike defendant's counter complaint, and the motion was granted on May 7, 2012. Defendant subsequently filed a timely motion to reconsider and vacate the possession order, which was denied on May 23, 2012.

¶ 5 As a preliminary matter, plaintiff argues that defendant's appeal must be dismissed because her notice of appeal was premature and therefore ineffective to confer jurisdiction upon this court pursuant to Illinois Supreme Court Rule 303. Ill. S. Ct. R. 303 (eff. June 4, 2008). Plaintiff claims that Rule 303 dictates that a notice of appeal has no effect if it is filed before the entry of an order disposing of the last pending post-judgment motion, and that defendant was required to file a new notice of appeal following the order disposing of her motion to vacate and reconsider the order of possession.

¶ 6 In so arguing, plaintiff relies on the previous version of Rule 303, and the cases cited by plaintiff in support also analyze the previous Rule. Under the current version of Rule 303, a notice of appeal filed before the entry of the order disposing of the last pending postjudgment motion becomes effective when that order is entered. Ill. S. Ct. R. 303(a)(2) (eff. June 4, 2008).

¶ 7 In this case, the record shows that defendant filed a notice of appeal on April 23, 2012, and subsequently filed a timely motion to reconsider and vacate the possession order, which was denied on May 23, 2012. Although defendant filed her notice of appeal prematurely, it became effective on the date the trial court ruled on her postjudgment motion. Ill. S. Ct. R. 303(a)(2) (eff. June 4, 2008). Therefore, this court has jurisdiction to entertain defendant's appeal.

¶ 8 That said, we consider defendant's claim that there was a triable issue of fact and that the court erred in granting plaintiff's motion for summary judgment. Summary judgment is properly granted when the pleadings, depositions, and admissions, on file, together with any affidavits, establish that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law. *DeFoor v. Northbrook Excess & Surplus Insurance Co.*, 128 Ill. App. 3d 929, 932 (1984). A reviewing court must therefore decide whether the trial court correctly found that no genuine issue of material fact has been raised, and if none was raised, that the plaintiff was entitled to judgment in its favor as a matter of law. *DeFoor*, 128 Ill. App. 3d at 933.

¶ 9 Defendant contends that plaintiff's "fraudulent actions" constituted a triable issue, and contends that the facts of this case support the doctrine of "*res ipsa loquitur*." Plaintiff responds that the judgment should be affirmed because defendant has not provided an adequate record for this court to analyze her claims.

¶ 10 The responsibility for preserving a sufficiently complete record to show error in the proceedings below rests with the appellant (*People v. Banks*, 378 Ill. App. 3d 856, 861 (2007)), and any doubts arising from presentation of the record will be resolved against the appellant (*Foutch v. O'Bryant*, 99 Ill. 2d 389, 392 (1984)). Defendant's *pro se* status does not excuse her

from complying with the supreme court rules governing appellate procedure (*Coleman v. Akpakpan*, 402 Ill. App. 3d 822, 825 (2010)), and she is expected to meet a minimum standard before this court can adequately review the decision of the circuit court (*Rock Island County v. Boalbey*, 242 Ill. App. 3d 461, 462 (1993)). Defendant has not done so here.

¶ 11 In her brief, defendant has set forth her own version of the purported facts, and advances arguments based on those facts, but she has not provided any supporting citations to the record in her statement of facts or argument as required by Illinois Supreme Court Rule 341(h)(6) and (7) (eff. July 1, 2008). In addition, defendant failed to include the plaintiff's motion for summary judgment or a report of proceedings or acceptable substitute as provided by Illinois Supreme Court Rule 323 (eff. Dec. 13, 2005). Although defendant's failure to file a report of proceedings is not fatal where the merits of the appeal may be judged on the pleadings (*Walker v. Iowa Marine Repair Corp.*, 132 Ill. App. 3d 621, 626 (1985); *DeVries v. Bankers Life Co.*, 128 Ill. App. 3d 647, 650 (1984)), the insufficient record in this case, which does not even include the motion at issue, makes it impossible for this court to review the trial court's grant of summary judgment. *Boalbey*, 242 Ill. App. 3d at 462. Defendant also argues that the doctrine of "*res ipsa loquitur*" supports her contention that the trial court erred in granting summary judgment, but she cites only general authority defining the doctrine, and does not explain its applicability. Under these circumstances, we find that plaintiff has failed to meet the minimum standard required for meaningful review, and we invoke the presumption that the judgment of the circuit court granting plaintiff's motion for summary judgment conformed with the law and had a sufficient factual basis. *Foutch*, 99 Ill. 2d at 394.

¶ 12 Affirmed.

1-12-1236