2019 IL App (1st) 173149-U

SIXTH DIVISION
February 8, 2019

No. 1-17-3149

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

NORTHPOINT PRESERVATION, LP,	)	
	)	Appeal from the
	)	Circuit Court of Cook County.
Plaintiff-Appellee,	)	
	)	
v.	)	17 M1 705721
	)	
ADECHI HOUSTON,	)	
	)	
	)	Honorable Alison Conlon,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE CONNORS delivered the judgment of the court.
Presiding Justice Delort and Justice Harris concurred in the judgment.

ORDER

¶ 1 *Held:* Those claims of error on appeal not clearly defined with pertinent authority cited and cohesive legal arguments presented are forfeited; those claims of error not supported with a record on appeal are assumed to be correctly determined; and the only remaining claim regarding the agreed order is affirmed. Affirmed.

¶ 2 On April 7, 2017, plaintiff, Northpoint, LP (Northpoint), filed an eviction lawsuit against defendant, Adechi Houston, who resided in apartment 1N at 1638 West Juneway Terrace in Chicago (the subject property). On October 23, 2017, the parties executed an agreed order wherein Houston agreed to vacate the subject property by November 22, 2017. After Houston

failed to vacate, the trial court entered an order for possession on November 28, 2017. Houston filed a notice of appeal on December 15, 2017, and then an amended notice of appeal on December 19, 2017. On appeal, Houston, *pro se*, claims that the trial court (1) abused its discretion for failing to impose sanctions against Northpoint's counsel for alleged discovery violations, and (2) erred when it did not consider Houston's affirmative defense and counterclaim of retaliation. For the following reasons, we affirm.

¶ 3 On February 13, 2017, Northpoint served a "Note of Termination and Tenancy" on Houston and any and all unknown occupants residing at the subject property based on Houston's alleged breach of certain terms of the lease agreement that prohibited noise disturbances and unlawful activities in the unit, in the common areas, or on the premises. The lease stated that Northpoint could terminate the agreement for several reasons, including material noncompliance with the terms of the agreement or criminal activity by a tenant that threatened the health, safety, or right to peaceful enjoyment of the premises by other residents. The notice gave Houston 10 days to vacate the subject property.

¶ 4 Houston failed to vacate the subject property, and on April 7, 2017, Northpoint filed an eviction lawsuit that sought possession of the property. Following discovery, trial was set for October 23, 2017. On October 20, 2017, Houston filed an emergency motion citing Federal Rule of Civil Procedure 37, alleging Northpoint's counsel should be sanctioned for failing to submit answers to Houston's written discovery requests. Houston sought dismissal of the case with prejudice.

¶ 5 On October 23, 2017, the parties did not go to trial and instead entered into an agreed order whereby Houston agreed to vacate the subject premises by November 22, 2017. There is no transcript of proceedings for October 23, 2017. The order states that if Houston vacated the

subject property by November 22, 2017, the eviction lawsuit would be dismissed and the file would be sealed.

¶ 6 On November 20, 2017, Houston filed three motions. She filed a motion for extension of time, which did not provide any allegations of facts or legal authority. She filed a motion to vacate a default judgment, which also did not have any allegations of facts and was not supported by legal authority. She also filed a motion to dismiss on the basis of due process, alleging that Northpoint falsely accused her of violating the terms of her lease.

¶ 7 On November 28, 2017, the trial court entered an order for possession in Northpoint's favor. The trial court denied Houston's motions, stating in its order, "The court finds [Houston] did not sign agreed order under duress." There is no report of proceedings in the record for the November 28, 2017, hearing on Houston's motions.

¶ 8 On December 4, 2017, Houston filed a motion to stay eviction, claiming Northpoint was not entitled to possession of the unit. On December 6, 2017, the trial court denied Houston's motion to stay eviction and stated that no further stays would be allowed. On December 15, 2017, Houston filed an emergency motion for stay of execution of judgment, as well as a notice of appeal. The motion was denied on December 19, 2017. Houston then filed a timely amended notice of appeal challenging the November 28, 2017, order of possession.

¶ 9 Preliminarily, we must address certain deficiencies in Houston's statement of facts. The content of an appellant brief is governed by Illinois Supreme Court Rule 341(h) (eff. May 25, 2018). Every appellant, including a *pro se* appellant, must comply with the requirements of Rule 341(h). *Ammar v. Schiller, DuCanto and Fleck, LLP*, 2017 IL App (1st) 162931, ¶ 16 ("Where a party has chosen to represent himself, he is held to the same standard as a licensed attorney and must comply with the same rules.") Houston's brief fails to comply.

¶ 10 Under Rule 341(h)(6) (eff. May 25, 2018), a statement of facts "shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal." Houston's statement of facts does not set forth those facts necessary to an understanding of the case. It is replete with arguments and allegations, many of which are irrelevant. The statement of facts fails to explain the evidence or facts that were presented below and led to the agreed order entered by the trial court. There are no hearing transcripts for any of the court dates mentioned in Houston's brief, and out of a 10-page statement of facts, there are only 7 total citations to the record. This court is not a depository into which an appellant may dump the burden of argument and research. *In re Marriage of Auriemma*, 271 Ill. App. 3d 68, 72 (1995).

¶ 11 Furthermore, there is no "Argument" section of Houston's brief. Rather, the arguments seem to be contained within her "Statement of Facts." We note that "[a] reviewing court is entitled to have the issues on appeal clearly defined with pertinent authority cited and a cohesive legal argument presented." *Id.* Illinois Supreme Court Rule 341(h)(7) (eff. May 25, 2018), requires a clear statement of contentions with supporting citations of authorities and pages of the record relied on. "Citations to authority that set forth only general propositions of law and do not address the issues presented do not constitute relevant authority for purposes of Rule 341(h)(7)." *Robinson v. Point One Toyota, Evanston*, 2012 IL App (1st) 111889, ¶ 54. These rules are not merely suggestions, but rather 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). "Issues that are ill-defined and insufficiently presented do not satisfy" Rule 341(h)(7) and are considered forfeited. *Walters v. Rodriguez*, 2011 IL App (1st) 103488, ¶ 6. Appellate courts are not required to "complete legal research to find support for" an appellant's arguments. *Id.*

¶ 12 We address each of Houston's contentions of error to the extent that we are able to understand them, and provide the reasons that we must either affirm or find them forfeited. Houston appears to make two arguments on appeal: (1) the trial court abused its discretion for failing to impose sanctions against Northpoint's counsel for alleged discovery violations, and (2) the trial court erred when it did not consider Houston's affirmative defense and counterclaim of retaliation.

¶ 13 On October 20, 2017, Houston filed an emergency motion for "Violation of Rule 37." The motion was based on alleged violations by Northpoint's counsel, Robert Kahn, of Federal Rule of Civil Procedure 37. Houston argued that Kahn should be sanctioned for failing to submit answers to Houston's written discovery requests. In her prayer for relief, Houston asked for the case to be dismissed, with costs assessed against Northpoint. Both parties agree that the trial court did not rule on Houston's emergency motion for sanctions. While the parties then entered into an agreed order on October 23, 2017, the order stated, "parties reserve all other claims."

¶ 14 Initially, we note that the Federal Rules of Civil Procedure govern the procedure in civil suits in the United States district courts, and these rules do not bind state courts, and therefore Rule 37 is inapplicable here. *Van Milligen v. Department of Employment Security*, 373 Ill. App. 3d 532, 543 (2007). Moreover, an alleged error is not preserved for review if the trial court fails to rule on it. *McCullough v. Gallaher & Speck*, 254 Ill. App. 3d 941, 946 (1993). The record reveals that while Houston did file a motion purported to be one for sanctions against Kahn, no ruling was made on this issue. Houston presents no evidence from the record as to the reason the motion was never decided, and the record shows that Houston never again brought the motion to the trial court's attention or requested a ruling. The party filing a motion has the responsibility of bringing it to the trial court's attention and having it resolved. See, *e.g.*, *Jackson v. Alverez*, 358

Ill. App. 3d 555, 563 (2005). Unless there is a contrary indication, where no ruling has been made on a motion, this court presumes that the motion was abandoned. See *PNC Bank, National Association v. Wilson*, 2017 IL App (2d) 151189, ¶ 29 ("An alleged error is not preserved for review if the trial court fails to rule upon it.") Thus, Houston forfeited this issue.

¶ 15 Houston also contends that the trial court did not consider her affirmative defense and allegations in her counterclaim of retaliation, both of which were made in response to Northpoint's original complaint in this case. However, this case did not go to trial. Rather, Houston entered into an agreed order with Northpoint on October 23, 2017. An agreed order, also termed a consent order or a consent decree, is not an adjudication of the parties' rights, but rather, a record of their private, contractual agreement. *In re Marriage of Rolseth*, 389 Ill. App. 3d 969, 971 (2009). Once such an order has been entered, it is generally binding on the parties and cannot be amended or varied without the consent of each party. *Id*. Because the agreed order was a private, contractual agreement, Houston's claim that the trial court did not consider her allegations of retaliation is rendered moot. The trial court did make any rulings on the underlying issues in this case, but rather merely enforced the result the parties had agreed upon in the October 23, 2017, order. To the extent that Houston contends she entered into the agreed order under duress, we find this argument to be without merit.

¶ 16 On November 20, 2017, Houston filed a motion to vacate a default judgment, which did not contain any allegations of facts and was not supported by legal authority. Northpoint states in its appellate brief that a hearing was held on this motion, at which point Houston raised the issue of duress. However, there is no hearing transcript in the record. All we have before us is an order, dated November 28, 2017, with a specific finding by the trial court that Houston was not under any duress when she entered into the agreed order on October 23, 2017.

¶ 17 Initially, we note that this court, in *Draper v. Kramer*, 2014 IL App. (1st) 132073, ¶ 24, recently decided that where a motion to vacate a consent decree is brought within 30 days of entry of the consent decree, it is considered a motion for relief under section 2-1301(e) (735 ILCS 5/2-1301 (West 2016)) of the Illinois Code of Civil Procedure (Code), which provides in pertinent part that a court "may on motion filed within 30 days after entry thereof set aside any final order or judgment upon any terms and conditions that shall be reasonable." We acknowledge Northpoint's contention that a postjudgment motion to vacate a consent decree should be considered a section 2-1401 motion, regardless of whether it was brought within 30 days of the entry of the consent decree. 735 ILCS 5/2-1401 (West 2016). Section 2-1401 of the Code, which provides for when a party may seek relief after 30 days of from final orders and judgments, requires a showing of the existence of a meritorious claim, due diligence in presenting the claim in the original action, and due diligence in seeking relief under section 2-1401. *In re Marriage of Buck, 318 Ill. App. 3d 493-94 (2000).* However, we need not address whether Houston's motion to vacate the consent decree should be considered a section 2-1401 motion, because even under the more relaxed standard of section 2-1301(e), we find that the trial court properly denied the motion to vacate.

¶ 18 Under section 2-1301(e), "the litigant need not necessarily show the existence of a meritorious defense. [Citation.] Rather, the overriding consideration is simply whether or not substantial justice is being done between the litigants and whether it is reasonable, under the circumstances, to compel the other party to go to trial on the merits." *In re Haley D.*, 2011 IL 110886, ¶ 57. A decision whether to grant a motion under section 2-1301 is discretionary, and we review a circuit court's ruling on a motion under this section for an abuse of discretion. *Draper*, 2014 IL App. (1st) 132073, ¶ 26. An abuse of discretion occurs when the circuit court

"acts arbitrarily without the employment of conscientious judgment or if its decision exceeds the bounds of reason and ignores principles of law such that substantial prejudice has resulted." *Marren Builders, Inc. v. Lampert*, 307 Ill. App. 3d 937, 941 (1999). We find that the trial court did not abuse its discretion in denying Houston's motion to vacate the consent decree.

¶ 19 Houston supports her allegations of duress by arguing her "mental capacity was under strain and stress" and that she was "unable to clearly think of the pros and cons of signing a settlement order." Besides this conclusive statement, there is simply nothing in the record to support allegations that Houston was under duress when she entered into the agreed order. In her reply brief, Houston contends that the trial judge was "adamant that she was not going to continue the case and [Houston] was left with no other option and reluctantly agreed to sign the settlement agreement under duress." However, we do not have the transcript from the hearing on Houston's motion to vacate the agreed order, after which the trial court concluded that Houston was not under duress when she signed the agreed order. The burden of providing a sufficient record falls on the appellant. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Where the record is not complete, any doubts which might arise from the incompleteness of the record will be resolved against the appellant. *Id.* 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). Accordingly, we must assume that the trial court's order conformed with the law and that the trial court did not abuse its discretion in denying Houston's motion to vacate.

¶ 20 We disregard Houston's facts that do not contain record cites and are argumentative, and find that her unsupported arguments are considered forfeited. We have not been presented any

reason to overcome the presumption under *Foutch* that the trial court correctly ascertained the facts of the case and followed the law in entering the agreed order and an order for possession.

¶ 21 For the foregoing reasons, the judgment of the trial court is affirmed.

¶ 22 Affirmed.