No. 2—10—0729
Order filed June 21, 2011

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re APPLICATION OF THE COUNTY TREASURER AND EX OFFICIO COUNTY COLLECTOR OF DU PAGE COUNTY ILLINOIS, FOR JUDGMENT AND ORDER OF SALE AGAINST REAL ESTATE RETURNED DELINQUENT FOR THE NON-PAYMENT OF GENERAL TAXES AND SPECIAL ASSESSMENTS FOR THE YEAR 2005 AND PRIOR YEARS	)	Appeal from the Circuit Court of Du Page County.
	)	No. 09—TD—28
(Galaxy Sites, LLC, Petitioner-Appellant, v. U.S. Bank N.A., as Trustee of the Security National Mortgage Loan Trust 2006-3, Respondent-Appellee (Union Tax Investors, Inc., Petitioner)).	)	Honorable Thomas C. Dudgeon, Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices McLaren and Birkett concurred in the judgment.

ORDER

Held: By attacking only the trial court's rationale for its grant (without an evidentiary hearing) of respondent's section 2—1401 petition, instead of attacking the judgment itself, petitioner forfeited the pertinent issue on appeal.

Galaxy Sites, LLC, the substituted petitioner in a tax deed proceeding, appeals from the grant of U.S. Bank's petition under section 2—1401 of the Code of Civil Procedure (735 ILCS 5/2—1401

(West 2008)) to vacate Galaxy's tax deed. (U.S. Bank appeared in its capacity as trustee of the Security National Mortgage Loan Trust 2006-3.) Galaxy argues only that the trial court's rationale for granting the petition was legally incorrect, but fails to discuss whether the grant itself was error. Because the incorrect rationale is not a basis for reversal, we affirm.

BACKGROUND

In this appeal, Galaxy asserts that, under section 22—45 of the Property Tax Code (Code) (35 ILCS 200/22—45 (West 2006)), section 2—1401 relief from an order for tax deed is available only in circumstances delimited by that section. It asserts that the court's findings in granting U.S. Bank's petition were inconsistent with the section 22—45 limitations.

Galaxy has included in its brief a statement of facts in a form that emphasizes its focus on the court's rationale. The summary of facts that follows is based on Galaxy's, with exceptions as noted.

On November 20, 2006, Union Tax Investors, Inc., purchased the delinquent 2005 property taxes associated with the property at 2S003 Tree Top Lane in Wheaton. On April 7, 2009, Union filed a petition for tax deed. Union later assigned its rights to Galaxy. There was no redemption of the property, and, on September 17, 2009, the court entered an order directing the clerk to issue a tax deed to Galaxy. Galaxy has not described what notices it or Union gave interested parties during these proceedings.

Further, according to Galaxy's statement of facts, on November 2, 2009, U.S. Bank filed a section 2—1401 petition seeking to vacate the September 17, 2009, order. Galaxy's statement does not describe U.S. Bank's argument for vacatur. The court granted the petition, finding that U.S. Bank "was not properly served as required by 35 ILCS 200/22—10 & 22—15 [(West 2006)]."

Galaxy has not described the hearing on the petition, but our review of the record shows that the court did not hear testimony, although it did seemingly accept representations of fact from counsel. Galaxy moved for reconsideration, asserting that the basis for vacatur given by the court was not a permissible one under section 22—45 of the Code. The court denied the motion.

In its argument on appeal, Galaxy asserts again that the trial court erred when it cited Galaxy's noncompliance with sections 22—10 and 22—15 of the Code as the basis for vacatur.

ANALYSIS

Galaxy's argument fails on its face to state a basis for reversal. "[T]he reasons given for a judgment or order are not material if the judgment or order itself is correct." *Ultsch v. Illinois Municipal Retirement Fund*, 226 Ill. 2d 169, 192 (2007). An argument such as Galaxy's that attacks only the trial court's reasoning is therefore fatally misdirected.

The irrelevance of showing a mistake in the trial court's rationale is also a straightforward consequence of the standard of review here, which is *de novo*, as the court did not hold an evidentiary hearing.[1] See *People v. Vincent*, 226 Ill. 2d 1, 15-17 (2007) (holding that any section 2—1401 disposition made without an evidentiary hearing is reviewable *de novo*). When we review a matter *de novo*, we consider it as if the trial court had rendered no decision (*Ryan v. Yarbrough*, 355 Ill. App. 3d 342, 346 (2005)) and therefore owe no deference to its reasoning (*Belton v. Forest*

[1]We have no reason here to discuss in detail the procedural peculiarities displayed by the record, as Galaxy has not raised any procedural issues in its brief. The record shows that the court granted the petition after a hearing on Galaxy's motion to dismiss. That nonstandard procedure makes any label assigned to the disposition somewhat arbitrary. What occurred is probably best described as a form of judgment on the pleadings.

Preserve District of Cook County, 407 Ill. App. 3d 409, 418-19 (2011)). It follows that the trial court's *reasoning* is irrelevant to whether we should uphold its decision. Only an argument that shows why the circumstances mandate a different *outcome* states a basis for reversal.

A proper argument here, one that would allow us to consider the matter on its merits, would address whether U.S. Bank had pleaded facts sufficient to entitle it to section 2—1401 relief. We will not make that argument on Galaxy's behalf. Any points that an appellant does not raise in its brief and support by argument are forfeited. Ill. S. Ct. R. 341(h)(7) (eff. Sept. 1, 2006). We do have the power to look beyond such a forfeiture, but use of that power when it forces us to speculate on the arguments a party might have chosen risks turning us into advocates. *People v. Rodriguez*, 336 Ill. App. 3d 1, 14 (2002). Here, we would be forced to guess at what defects Galaxy would point to in U.S. Bank's pleadings. Nevertheless, we will explain in outline why the record does not obviously mandate reversal.

The central issue would be whether U.S. Bank's pleadings brought its petition within the boundaries set by section 22—45 of the Code. Section 22—45 limits section 2—1401 vacatur of tax deeds to four conditions or sets of conditions. Only the fourth set of conditions, given in section 22—45(4) (35 ILCS 200/22—45(4) (West 2006)) is relevant here. Section 22—45(4) has three elements: (1) that the person has a *recorded* interest in the property; (2) that the person "was not named as a party in the publication notice as set forth in Section 22—20"; and (3) "that the tax purchaser or his or her assignee did not make a diligent inquiry and effort to serve that person or party with the notices required by Sections 22—10 through 22—30." 35 ILCS 200/22—45(4) (West 2008). Galaxy has not suggested which element or elements the petition failed to plead. We discuss each briefly.

We can quickly see that no reversible error is associated with the first element. That element was never at issue; the mortgage was recorded.

The second element was perhaps a difficulty for U.S. Bank at the trial level, but the uncertainty left by the record on appeal prevents the issue from obviously favoring Galaxy on appeal. "[A]n appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). The record does not contain a certificate of publication and so does not directly answer the question of whether Galaxy (or its predecessor in interest) properly named U.S. Bank in the notice. A hearing transcript implies that Galaxy showed a certificate of publication to the court, but the discussion does not allow us to draw any clear conclusions about what the certificate showed. Lacking a complete record, we "presume[] that the order entered by the trial court was in conformity with law and had a sufficient factual basis" and we resolve against the appellant all doubts that arise from the incompleteness of the record. *Foutch*, 99 Ill. 2d at 392. Galaxy might respond that the failure of the trial court's finding to mention noncompliance with section 22—20 overcomes the presumption of a sufficient factual basis. That argument has at least one possible response in that section 22—15 (35 ILCS 200/22—15 (West 2006)), one section with which the court said Galaxy failed to comply, itself requires compliance with section 22—20. The matter thus is too nuanced for resolution on the merits without proper argument from Galaxy.

We now turn to the third element. Here again the matter is not one that we will address in the absence of proper argument. Our own examination of the record shows that U.S. Bank's attack on the order for deed focused primarily on its assertion that Galaxy and its predecessor in interest had not been diligent in seeking the proper address at which to send U.S. Bank notice of the

proceedings. It alleged that it had two proper addresses for service and that at least one of them could be found readily on its website. Galaxy had not sent required notices to either, serving it instead by mailing notice to branch locations. These allegations related to the third element. Galaxy's original appellate brief says nothing about whether U.S. Bank's pleadings were sufficient as to that element. U.S. Bank, in its appellate brief, argues at some length that Galaxy and its predecessor were not diligent in complying with the relevant statutory provisions. Galaxy has not filed a reply brief. Thus, Galaxy has nowhere so much as implied that this aspect of U.S. Bank's petition was insufficient. We bear no obligation to search the record for error. *E.g.*, *U.S. Bank v. Lindsey*, 397 Ill. App. 3d 437, 459 (2009). To look for error on this issue without even a hint from the appellant about where it might lie would take us too far into the role of advocate.

CONCLUSION

For the reasons stated, we affirm the order of the trial court granting U.S. Bank's section 2—1401 petition.

Affirmed.