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2015 IL App (1st) 141311-U

SECOND DIVISION
March 31, 2015

No. 1-14-1311

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).

CLARA ABBAS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant and)	Cook County
Cross-Appellee,)	
)	
v.)	
)	
SHEILA FINKEL and LIBERMAN MANAGEMENT)	
SERVICES, INC.,)	No. 11 L 7462
)	
Defendants-Appellees and)	
Cross-Appellants)	
)	
(Iva Williams, Charles T. White and Eyes Have Not Seen,)	
an Illinois Corporation,)	Honorable
)	John H. Ehrlich,
Defendants).)	Judge Presiding.

JUSTICE PIERCE delivered the judgment of the court.
Presiding Justice Simon and Justice Liu concurred in the judgment.

ORDER

- ¶ 1 *Held:* Appeal and cross-appeal dismissed for failure to comply with Illinois Supreme Court Rules 341 (eff. Feb. 6, 2013) and 342 (eff. Jan. 1, 2005).
- ¶ 2 Plaintiff, Clara Williams, *pro se*, appeals the trial court's entry of summary judgment in

favor of defendants, Sheila Finkel and Lieberman Management Services, Inc. These defendants cross-appeal the trial court's vacatur of a previously entered order for sanctions against plaintiff and the denial of a second motion for sanctions. We briefly recite only those facts necessary for an understanding of our decision herein.

¶ 3 Plaintiff, *pro se*, filed this action in the circuit court of Cook County seeking \$500,000 in damages for fraud, intentional infliction of emotional distress, conversion, illegal and unlawful lockout and battery. The underlying facts of this case stem from plaintiff's attempt to prevent foreclosure on her condominium unit by the mortgage holder and her defense of an eviction action by the condominium association for past due assessments. The gist of plaintiff's claims alleged in the operative complaint against the condominium association's property management firm, defendant Lieberman Management Services, Inc., and its employee Sheila Finkel, derive from plaintiff's attempt to settle the eviction matter and retrieve her personal belongings from the condominium, while using a false name and representing herself as the new unit owner, Iva Williams.

¶ 4 During the trial court proceedings, for a brief period, plaintiff was represented by counsel. During this period, defendants Finkel and Lieberman filed a motion to dismiss the initial complaint and a motion for sanctions against plaintiff for bringing a complaint not grounded in fact and in law. This motion for sanctions remained pending until final dismissal of the claims against Finkel and Lieberman.

¶ 5 While plaintiff represented herself *pro se*, she filed several procedural motions. After a hearing on one of those motions, a different trial judge entered an order sanctioning plaintiff for "failing to appear *** and give notice" to defendants. Plaintiff was ordered to pay \$250 each to

the attorneys for defendants Finkel and Iva Williams.

¶ 6 After plaintiff filed her fourth amended complaint, Finkel and Lieberman filed a motion to dismiss plaintiff's claims or in the alternative, grant summary judgment in their favor. On April 18, 2014, after hearing, the trial court granted defendants' motion for summary judgment and "dismissed all of plaintiff's claims against Finkel and Lieberman *** with prejudice" finding that the property management company and Finkel simply did their job as they were instructed and authorized to do. The trial court further found that the facts of the case were "extremely complicated" because of plaintiff's misrepresentations to Finkel and Lieberman "as to her identity and other issues." In light of the trial court's ruling dismissing all claims against Finkel and Lieberman with prejudice, the trial court denied defendants' pending motion for sanctions and vacated the earlier sanctions award against plaintiff. At the same hearing, the trial court heard defendant Iva Williams' motion to dismiss the complaint, which the court denied in part and granted in part. Because the claims against Williams remained pending, the trial court made a finding that there was no just reason to delay the enforcement or appeal of the order as to Finkel and Lieberman, pursuant to Illinois Supreme Court Rule 304(a) (eff. Feb. 26, 2010).

¶ 7 Plaintiff timely filed a notice of appeal from the April 18, 2014 order dismissing her claims against Finkel and Lieberman. Thereafter, defendants Finkel and Lieberman were given leave to file a cross-appeal from the same order which vacated the earlier sanctions award and denied their other motion for sanctions.

¶ 8 As a threshold matter, we note that neither the appellant's brief nor the cross-appellants' brief comply with Illinois Supreme Court Rules 341 (eff. Feb. 6, 2013) and 342 (eff. Jan. 1, 2005). Rules 341 and 342 govern the procedure concerning appellate briefs. These rules are not

mere suggestions, but are compulsory. *Niewold v. Fry*, 306 Ill. App. 3d 735, 737 (1999). The purpose of appellate rules is to require the parties to present clear and orderly arguments before a reviewing court, so that the court can properly ascertain and dispose of the issues involved. *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 7. The failure to comply with these rules may result in the dismissal of the appeal. *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005). The fact that a party appears *pro se* does not relieve that party from complying with these rules. *Voris v. Voris*, 2011 IL App (1st) 103814 ¶ 8; *Lewis v. Heartland Food Corp.*, 2014 IL App (1st) 123303, ¶ 5.

¶ 9 First, we address both parties' failure to comply with Rule 342, which requires an appellant to include in its brief, among other things, a copy of the notice of appeal, the judgment appealed from, any findings of fact or opinions issued by the trial court and any relevant pleadings. Ill. Sup. Ct. Rule 342 (eff. Jan. 1, 2005). Compliance with Rule 342 is mandatory and a party's failure to comply justifies the dismissal of an appeal. *Fender v. Town of Cicero*, 347 Ill. App. 3d 46, 51-52 (2004). Although the common law record is available in this case, as a reviewing court, we are not required to search the record to find a reason to reverse a trial court's rulings. *Mitchell v. Toledo, Peoria & Western R.R. Co.*, 4 Ill. App. 3d 1, 3 (1972) ("[o]n appeal all reasonable presumptions are in favor of the judgment of the trial court, and although the entire record is available, the reviewing court is not required to search the record to find reason to reverse"); *Diver v. Village of Glencoe*, 63 Ill. App. 3d 591, 597 (1978).

¶ 10 The common law record in this appeal contains over 1,700 pages and comprises 8 volumes, including numerous motions and briefs involving the issues raised in the appeal and cross-appeal. The plaintiff's appeal requires our review of the trial court's summary judgment

ruling, the briefs relating thereto, the parties' evidentiary support for their respective positions and the admission of certain evidence. The defendants' cross-appeal requires our review of the events at several court hearings and our consideration and review of their motion for sanctions that was reincorporated and continued over the course of the entire litigation. Here, neither plaintiff nor defendants/cross-appellants included with their appellant and cross-appellant briefs an index, notice of appeal (or cross-appeal), the judgments appealed from or any relevant pleadings relating to those judgments, as required by Rule 342. These failures complicate and restrict our review of the issues raised in the appeal and the cross-appeal. In addition, the failure to provide us with these documents is further exacerbated by the parties' failure to comply with Rule 341 as well.

¶ 11 Illinois Supreme Court Rule 341 requires that an appellant present a fully developed argument with adequate legal and factual support (*Housing Authority v. Lyles*, 395 Ill. App. 3d 1036, 1040 (2009)), cite to the record for all factual assertions made and cite to legal authority for the arguments advocated (*Soter v. Christoforacos*, 53 Ill. App. 2d 133, 137 (1964)). See generally Ill. Sup. Ct. Rule 341(h)(6), (7) (eff. Feb. 6, 2013).

¶ 12 We find that plaintiff failed to present fully developed arguments in her appellate brief and failed to provide us with the necessary legal and factual support to review her claims of error. In her brief, plaintiff argues, without citation to sufficient factual support in the record, that the trial court erred in granting summary judgment for defendants because plaintiff had "overwhelming evidence" to support her position and defendants "failed to produce even a scintilla of evidence to show that they were entitled to summary judgment." She also argues that the trial court allowed defendants' counsel to make an improper statement at the summary

judgment hearing. Although plaintiff generally references the legal standards in furtherance of her arguments, she does not apply these standards to the facts in this case. Instead, plaintiff generally and in a conclusory manner restates four items of evidence that she claims establish that she is entitled to judgment and concludes that the trial court improperly permitted defendants' counsel to make a prejudicial in-court statement "regarding money." Furthermore, plaintiff does not include in her appellate brief any relevant citation to the record that shows the trial court's alleged error, including her claim that the trial court failed to consider her "overwhelming evidence."

¶ 13 Failure to properly develop an argument does "not merit consideration on appeal and may be rejected for that reason alone." *Housing Authority*, 395 Ill. App. 3d at 1040. "The appellate court is not a depository into which a party may dump the burden of research" and "[a] conclusory assertion without supporting analysis, is not enough" to satisfy Rule 341. (Internal quotation marks omitted.) *In re Marriage of Petrik*, 2012 IL App (2d) 110495, ¶¶ 38-40. We will not consider points that are merely stated without argument and citations of support because this court "will not search through the record for possible errors on which a judgment may be reversed." *Soter v. Christoforacos*, 53 Ill. App. 2d at 137 (citing *Reichelt v. Anderson*, 222 Ill. App. 176, 179 (1921)). Rule 341 also requires citation to the record for all factual assertions made in an appellant's brief. Ill. Sup. Ct. Rule 341(h)(6), (7) (eff. Feb. 6, 2013). The failure to substantiate factual assertions with such citation to the record warrants the dismissal of an appeal because it makes it "next to impossible for this court to assess whether the facts as presented *** are an accurate and fair portrayal of the events in this case." *Collier v. Avis Rent A Car System, Inc.*, 248 Ill. App. 3d 1088, 1095 (1993). Therefore, we find that plaintiff's appellate brief fails to

provide us with a legal and factual basis to support her claims of error and we, therefore, dismiss her appeal on this basis.

¶ 14 Although represented by counsel on appeal, defendants/cross-appellants also fail to properly develop their argument and provide a factual and legal basis to review their claim of error. In their cross-appeal, defendants contend that we should reverse the trial court's vacatur of the initial sanctions award and the trial court's denial of defendants' second motion for sanctions. In the argument section of their brief, defendants provide us with the legal standard for reversing the trial court's ruling, but fail to provide any legal or factual basis for such a reversal. Defendants do not cite case law in the body of their argument to show why they were entitled to sanctions under these circumstances. Although, defendants describe plaintiff's conduct and the factual circumstances of this litigation in arguing the merits of why sanctions should be awarded in their favor, defendants fail to provide us with any citation to the record to support these statements. Instead, the only record citations are to various trial court orders and defendants' written motion for sanctions filed at the outset of this litigation. Furthermore, it is unclear from defendants' cross-appeal whether the initial sanctions award was based on defendants' oral or written motion or whether it was entered by the trial court on its own motion. Therefore, on this basis, we also find that defendants/cross-appellants failed to provide us with a legal and factual basis to support their claims of error and we, therefore, dismiss the cross-appeal.

¶ 15 We further note that if we had not dismissed the cross-appeal for the failure to comply with these rules, the cross-appeal suffers from another deficiency. The basis of defendants/cross-appellants' argument is that the trial court abused its discretion in vacating the earlier sanctions award and denying a separate motion for sanctions. Where a trial court's ruling is discretionary,

that ruling will not be reversed absent a sufficient record showing the basis for the trial court's decision. *Foutch v. O'Bryant*, 99 Ill. 2d 389 (1984). It is incumbent upon defendants/cross-appellants, as the parties claiming error, to provide us with a sufficient record in order to review these claims. *Foutch*, 99 Ill. 2d at 391-92. Here, the record does not contain a transcript or a substitute report of proceedings of the hearing where the initial sanction award was ordered. Without such information, we cannot know the arguments that were presented by the parties or the reasoning of the trial court in making its ruling. Therefore, we are without a sufficient basis to adjudge the trial court's later vacatur of that sanction award.

¶ 16 In short, the plaintiff and defendants/cross-appellants have not complied with the rules that are in place to assist the appellate court in its effort to understand and properly consider the legal and factual issues the parties believe merit our consideration and that support a ruling in their favor. Without proper submissions from the parties, a ruling by this court would not be fair to the parties and would not comport with the requirements set forth in our supreme court rules. Given the numerous rule violations in this case, we cannot conduct a meaningful review of this appeal and are therefore compelled to dismiss the appeal and cross-appeal in their entirety. *Voris v. Voris*, 2011 IL App (1st) 103814, ¶ 8; *Zadrozny v. City Colleges of Chicago*, 220 Ill. App. 3d 290, 292-93 (1991).

¶ 17 Appeal and cross-appeal dismissed.