

No. 1-18-2110

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

MICHAEL QUINONES,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	
)	No. 18 M1 701850
SAMUEL REED and ANY UNKNOWN OCCUPANTS,)	
)	
Defendants.)	Honorable
)	David A. Skryd,
(Samuel Reed, Defendant-Appellant).)	Judge Presiding.

PRESIDING JUSTICE McBRIDE delivered the judgment of the court.
Justices Reyes and Burke concurred in the judgment.

ORDER

¶ 1 *Held:* Where defendant failed to meet his burden of providing a complete record on appeal to support his claims of error, this court presumes that the trial court's orders were in conformance with the law.

¶ 2 This appeal arises from a complaint for eviction filed by plaintiff, Michael Quinones, against defendant, Samuel Reed, and any unknown occupants, and the subsequent order for eviction entered in favor of plaintiff and against defendant. In this appeal, defendant contends

that the trial court erred in denying his motions to dismiss the complaint, and in granting possession to plaintiff.

¶ 3 The record shows that on January 31, 2018, plaintiff filed a complaint for eviction, alleging that he was entitled to possession of the property located on the top floor of 5426 West Jackson Boulevard in Chicago. Plaintiff further alleged that defendant had “held over after the tenancy ended,” and plaintiff claimed possession of the property. Defendant was served on February 6, 2018, by the Cook County Sheriff. Defendant initially filed a *pro se* appearance in this matter on February 14, 2018, and thereafter, on February 22, 2018, counsel for defendant filed her appearance on his behalf. At defendant’s counsel’s request, the parties entered an agreed order continuing the matter, and granting defendant additional time to answer or otherwise plead.

¶ 4 On March 15, 2018, defendant filed a motion to dismiss the complaint pursuant to 735 ILCS 5/2-619(a)(9) (West 2016). Defendant contended that the court had no subject matter jurisdiction over the matter, and that plaintiff was not entitled to possession of the property, because plaintiff “failed to properly serve defendant with a 30-day notice pursuant to 735 ILCS 5/9-212” (West 2016). Defendant alternatively alleged that plaintiff had “no standing to seek possession” because there existed an order “hold[ing] the Property in a constructive trust for the benefit of Defendant” and “no order or release has been recorded lifting” that order.

¶ 5 On April 19, 2018, the court entered an order setting a briefing schedule on defendant’s motion to dismiss, and setting the matter for hearing on May 25, 2018. No responsive pleading appears in the record on appeal.

¶ 6 On May 25, 2018, the court held a hearing on defendant’s motion to dismiss, with the parties present through counsel. In the written order filed the same day, the court held,

“Defendant’s motion is denied for reasons stated on the bench.” No transcript of that hearing appears in the record on appeal.

¶ 7 On July 9, 2018, defendant filed a motion to dismiss the eviction complaint “pursuant to 735 ILCS 5/2-619(a)(3)” (West 2016). In this motion, defendant alleged that plaintiff’s eviction action should be dismissed because there was a chancery matter involving the same parties, and both matters involved “possessory interest of the Property” and were based on “substantially similar facts.” In the alternative, defendant contended that the eviction action should be stayed “pending resolution of the Chancery Matter, because that action will resolve issues presented in [the] Eviction Matter.”

¶ 8 On July 24, 2018, the court entered an order setting a briefing schedule on defendant’s motion to dismiss, and setting the matter for hearing on August 24, 2018. No responsive pleading appears in the record on appeal.

¶ 9 The matter was continued by agreement to September 14, 2018, at which time the court held a hearing on defendant’s motion. In the written order filed the same day, the court held, “the court denies Defendant’s 2-619(a)(3) motion to dismiss and request for a stay for reasons stated on the bench.” Defendant was granted leave to answer or otherwise plead to the complaint, and the matter was set for trial on September 27, 2018. No transcript of the September 14, 2018, hearing appears in the record on appeal.

¶ 10 On September 27, 2018, the day of trial, defendant filed an “answer and affirmative defenses” to the eviction complaint, denying all allegations of the complaint. Defendant affirmatively alleged that the court lacked subject matter jurisdiction over the matter because plaintiff failed to provide proper notice; that plaintiff lacked standing to seek possession of the premises due to the order entered in the chancery court ordering that the property was held in

constructive trust for defendant; and that plaintiff should be equitably estopped from claiming possession of the property, due to various alleged acts of “malfeasance.”

¶ 11 Also on September 27, 2018, the court entered an eviction order, giving possession of the property to plaintiff, ordering defendant to move out *instanter*, and, if defendant did not move out *instanter*, ordering the sheriff to evict defendant. No transcript of the September 27, 2018, trial appears in the record on appeal, and the eviction order gave no reasoning or factual findings for the decision.

¶ 12 Defendant filed a timely notice of appeal on October 1, 2018, and in this court, defendant raises two issues. He first contends that the trial court erred when it granted possession to plaintiff “while the issue of possession was, and had already been, pending in another court.” Second, defendant alleges that the court erred in granting possession to plaintiff, because plaintiff “had no standing to sue.”

¶ 13 Before turning to the merits of defendant’s appeal, we note that plaintiff has not filed an appellee’s brief, but this court may consider an appeal on the merits “if the record is simple and the claimed errors are such that the court can easily decide them without the aid of an appellee’s brief.” *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976). In this case, however, we must affirm the judgment of the circuit court for a different reason—because the record on appeal is insufficient to support defendant’s allegations of error.

¶ 14 It is well-established that “an 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 (1984). “From the very nature of an appeal it is evident that the court of review must have before it the record to review in order to determine whether there was the error claimed by the appellant.” *Id.* When the record on appeal is insufficient, “it will be presumed that the order

entered by the trial court was in conformity with law and had a sufficient factual basis.” *Id.* at 392. Any doubts arising from the incompleteness of the record must be resolved against the appellant. *Id.*

¶ 15 The record in this case consists only of the common law record, and does not include any transcripts or acceptable substitutes of any of the relevant hearings in which the trial court denied defendant’s motions to dismiss, or the trial, after which the trial court entered an eviction order. See Ill. S. Ct. R. 323(c), (d) (eff. July 1, 2017) (noting that in lieu of a trial transcript, an appellant may file a bystander’s report or an agreed statement of facts). Consequently, this court has no knowledge of what evidence was presented, what arguments were made, what findings the court made, or the reasoning and rationale that provided the bases for the circuit court’s rulings. See *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 155-56 (2005) (declining to disturb the circuit court’s judgment when “nothing in the supporting record contains any factual findings or the basis for the circuit court’s decision”). Moreover, the written orders denying defendant’s motions to dismiss explicitly indicate that the reasons for denying defendant’s motions were “stated on the bench.”

¶ 16 In his appellant’s brief before this court, defendant articulates his version of events, including his understanding of the court’s—in his opinion—misguided reasoning in denying his motions to dismiss and granting the eviction. Defendant also attempts to justify the lack of a transcript on appeal by stating that he made “oral motion[s]” for a court reporter that were denied by the trial court. Specifically, he contends that on the day of trial, he made an oral motion to allow a court reporter to transcribe the proceedings telephonically, and, when that oral motion was denied, he made another oral motion to continue the matter while searching for an available court reporter to attend in person. Defendant further contends that the trial court refused to allow

him to prove up his affirmative defenses, and refused to include “its decision in the written order.”

¶ 17 Defendant’s contentions, however, are completely unsupported by the record on appeal. Moreover, defendant’s attempts to shift the blame for the lack of a transcript are not well taken. The absence of a transcript does not necessarily preclude appellate review because Supreme Court Rule 323 provides the appellant with a means to reconstruct an absent record. Ill. S.Ct. R. 323 (eff. Dec. 13, 2005). Here, however, defendant failed to provide a transcript, or otherwise reconstruct the record with either a bystander’s report or an agreed statement of facts filed by the parties. See *id.* Because we have no meaningful record from which to review any claimed error, this court must presume that the circuit court acted in conformity with the law and ruled properly after considering the evidence before it. *Webster v. Hartman*, 195 Ill. 2d 426, 433-34 (2001); *Foutch*, 99 Ill. 2d at 391-94. Under these circumstances, this court will not disturb its judgment.

¶ 18 For the foregoing reasons, the judgment of the circuit court is affirmed.

¶ 19 Affirmed.