

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).

FILED

October 9, 2019
Carla Bender
4th District Appellate
Court, IL

2019 IL App (4th) 190150-U
NO. 4-19-0150

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

ANDREW P. JONES,)	Appeal from the
Plaintiff-Appellee,)	Circuit Court of
v.)	Sangamon County
KATHLEEN HULEN and DENNIS JONES,)	No. 18CH214
Defendants-Appellants.)	
)	Honorable
)	Adam Giganti,
)	Judge Presiding.

JUSTICE DeARMOND delivered the judgment of the court.
Presiding Justice Holder White and Justice Knecht concurred in the judgment.

ORDER

- ¶ 1 *Held:* The appellate court affirmed, finding the trial court did not err in granting plaintiff’s motion for partial summary judgment.
- ¶ 2 In February 2018, the trial court granted a motion for partial summary judgment for plaintiff, Andrew P. Jones, and dismissed counts II and III from the amended counterclaim of defendants, Kathleen Hulen and Dennis Jones.
- ¶ 3 On appeal, defendants argue the trial court erred by granting the motion for partial summary judgment and dismissing counts II and III from the amended counterclaim since (1) there was an improper transfer of real estate deeds and (2) defendants had adversely possessed the property. We affirm.

I. BACKGROUND

- ¶ 4
- ¶ 5 We note initially the complaint in this matter is missing from the record. It appears the dispute is regarding real estate in Springfield. According to the submissions of the

parties, this property was divided into a 0.292-acre portion and a 0.78-acre portion. The disputed area, the 0.78-acre portion, was owned by Mary Ellen Jones and Ray K. Jones, the parents of defendants and grandparents of plaintiff, as joint tenants. In March 1967, they conveyed the tract of land to an irrevocable trust with Springfield Marine Bank, which named their children as beneficiaries. In 1968, the bank began an action to modify the construction of the trust, and the trial court modified the trust to convey the property to Mary Ellen Jones. Later, Ray Jones conveyed the rest of his interest in the 0.78- and 0.292-acre tracts to Mary Ellen Jones.

¶ 6 In August 2000, defendants, along with three of their siblings, executed a quitclaim deed to Mary Ellen Jones regarding their interest in the trust to the 0.78-acre portion. In January 2005, Mary Ellen Jones executed a warranty deed conveying her interest in the property to her son and plaintiff's father, Michael Jones. In August 2017, Michael Jones conveyed the property through a warranty deed to plaintiff.

¶ 7 Plaintiff filed a complaint for forcible entry and detainer against defendants. Defendants filed an answer and counterclaims, alleging plaintiff acquired the property through his father fraudulently by having defendants and their siblings execute quitclaim deeds to their mother, who conveyed it to plaintiff's father through invalid warranty deed transfers. In their first amended counterclaim filed in October 2018, defendants do not argue about their siblings' quitclaim deeds but instead focus on their own. Defendants argue invalid quitclaim deed transfers (count I), invalid warranty deed transfers (count II), and a claim to the property under the doctrine of adverse possession (count III). Plaintiff filed a motion to dismiss the counts regarding the quitclaim deed transfers and adverse possession, which the trial court granted.

¶ 8 This appeal followed.

¶ 9

II. ANALYSIS

¶ 10 Defendants have filed a *pro se* appellant brief utilizing the standardized form approved by the Illinois Supreme Court in January 2018. Even utilizing the form, defendants' brief fails to comply with Illinois Supreme Court Rule 341(h) (eff. May 25, 2018) in a number of particulars. Defendants failed to follow the form's directions to provide any points and authorities as required by Illinois Supreme Court Rule 341(h)(1) (eff. May 25, 2018). They have cited no summary statement of cases or statutes to be referenced later in their argument. This is, in part, due to the fact they omitted the pages of the form captioned "ARGUMENT" in their entirety. As a result, the brief contains no argument section at all, in violation of Illinois Supreme Court Rule 341(h)(7) (eff. May 25, 2018). Under Rule 341(h)(7), " 'points not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing.' " *People v. Sparks*, 315 Ill. App. 3d 786, 790, 734 N.E.2d 216, 220 (2000). Even seeking to charitably interpret the statement of facts as some form of argument, beyond some conclusory statements, there is little, if anything, which could be construed as a legal argument therein, and, even if it could, there were no citations to the record or case authority cited in support, also in violation of Illinois Supreme Court Rule 341(h)(7) (eff. May 25, 2018).

¶ 11 "A reviewing court is entitled to have issues clearly defined with pertinent authority cited and coherent arguments presented; arguments inadequately presented on appeal are waived. [Citation.] Statements unsupported by argument or citation of relevant authority do not merit consideration on review. [Citation.] A reviewing court will not become an advocate for, as well as the judge of, points the appellant seeks to raise. [Citation.]" *Vernon Hills III Ltd. Partnership v. St. Paul Fire & Marine Insurance Co.*, 287 Ill. App. 3d 303, 311, 678 N.E.2d 374, 379 (1997). "A party's status as a *pro se* litigant, as here, does not relieve him [or her] of [the] obligation to comply with appellate rules." *Matlock v. Illinois Department of Employment*

Security, 2019 IL App (1st) 180645 ¶ 14, 130 N.E.3d 41. A reviewing court “is not a repository for an appellant to foist the burden of argument and research.” *Enadeghe v. Dahms*, 2017 IL App (1st) 162170 ¶ 23, 95 N.E.3d 1170.

¶ 12 There are also no citations to the record, cases, or statutes applicable to the issues defendants seek to raise on appeal. Again, this is probably due to the fact they entirely omitted the page of the form captioned “ISSUES PRESENTED FOR REVIEW,” in violation of Illinois Supreme Court Rule 341(h)(3) (eff. May 25, 2018). As a result, they have formulated no legal issues upon which they seek to base their appeal. Having failed to raise any issues on appeal, appellants have forfeited them. See *Peltier v. Collins*, 382 Ill. App. 3d 773, 780, 888 N.E.2d 1224, 1230 (2008).

¶ 13 As noted by plaintiff, although the dismissal order and partial summary judgment were final orders, this appeal was filed pursuant to Illinois Supreme Court Rule 307 (eff. Nov. 1, 2017) as an interlocutory appeal. Regardless of whether defendants intended an appeal under Illinois Supreme Court Rule 303 (eff. July 1, 2017) or Rule 304 (eff. Mar. 8, 2016), the record on appeal is missing key documents, such as the complaint and the hearing on the motion for partial summary judgment. It does not include the common law record of the chancery case, 2018-CH-214, which resulted from the filing of defendants’ counterclaim. It is well established “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, 391-92, 459 N.E.2d 958, 959 (1984). Absent such a “record on appeal, it will be presumed that the order entered by the trial court was in conformity with law and had a sufficient factual basis.” *O’Bryant*, 99 Ill. 2d at 392. “ ‘Any doubts arising from the inadequacy of the record will be resolved against the defendant.’ ” *Corral v. Mervis Industries*, 217 Ill. 2d 144, 155, 839 N.E.2d 524, 531 (2005)

(quoting *Weaver v. Midwest Towing Inc.*, 116 Ill. 2d 279, 285, 507 N.E.2d 838, 840 (1987), citing *O'Bryant*, 99 Ill. 2d at 391-92).

¶ 14 From the record, we are unable to discern exactly what evidence was before the trial court and on what basis the trial court made its ruling. Without that information, we are to presume the trial court made the correct finding based on the evidence before it. Therefore, rather than simply dismissing the appeal due to its many deficiencies, we affirm the trial court's judgment dismissing counts II and III of the first amended counterclaim and granting the motion for partial summary judgment. Plaintiff filed a motion to strike appellants' reply brief on July 29, 2019, which was ordered to be taken with the case on August 13, 2019. Based upon the failure of appellants to comply with Illinois Supreme Court Rule 307(c), the motion is granted, and appellants' reply brief is stricken.

¶ 15 III. CONCLUSION

¶ 16 For the reasons stated, we affirm the trial court's judgment.

¶ 17 Affirmed.