2025 IL App (4th) 250091-U

NO. 4-25-0091

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
June 30, 2025
Carla Bender
4th District Appellate
Court, IL

A. NEUMANN & ASSOCIATES, LLC, and ANA COMMERCIAL REAL ESTATE TRISTATE, LLC, Plaintiffs-Appellees, v. RUDY MARMELO and RUDY & SONS, INC., Defendants-Appellants.	))))))))	Appeal from the Circuit Court of Brown County No. 24LA2 Honorable Zachary P. Boren, Judge Presiding.

JUSTICE CAVANAGH delivered the judgment of the court.
Justices Knecht and Vancil concurred in the judgment.

ORDER

¶ 1 *Held*: By denying defendants' motion, pursuant to section 12-654 of the Uniform Enforcement of Foreign Judgments Act (735 ILCS 5/12-654 (West 2024)), to stay the execution of a New Jersey judgment, the circuit court did not abuse its discretion.

¶ 2 In a New Jersey court, plaintiffs, A. Neumann & Associates, LLC, and ANA Commercial Real Estate Tristate, LLC, won a money judgment against defendants, Rudy Marmelo and Rudy & Sons, Inc. Pursuant to section 12-652(a) of the Uniform Enforcement of Foreign Judgments Act (Act) (735 ILCS 5/12-652(a) (West 2024)), plaintiffs filed a certified copy of the New Jersey judgment in the circuit court of Brown County, Illinois, as a prelude to collection. Pursuant to section 12-654 of the Act (*id.* § 12-654), defendants moved to stay the execution of the New Jersey judgment. The Brown County circuit court denied the motion. Defendants appeal this ruling, which amounted to the refusal of an injunction, an interlocutory

judgment appealable as of right. See Ill. S. Ct. R. 307(a) (eff. Nov. 1, 2017).

¶ 3 We find no abuse of discretion in the denial of a stay pursuant to section 12-654. Therefore, we affirm the circuit court's judgment.

¶ 4 I. BACKGROUND

¶ 5 In June 2018, in case No. MON-L-2381-18 of the Superior Court of New Jersey, Monmouth County, Law Division, plaintiffs initiated a civil lawsuit against defendants and others. In June 2019, defendants filed an answer to the third amended complaint, and the answer included cross-claims for contribution and indemnification from parties other than plaintiffs. On March 8, 2024, after hearing evidence, the superior court entered a judgment in favor of plaintiffs and against defendants in the amount of $1,109,743.18. The judgment order, however, made no reference to defendants' cross-claims.

¶ 6 On May 15, 2024, in case No. 24-MC-03006-CRL-KLM of the United States District Court for the Central District of Illinois, plaintiffs filed a copy of the New Jersey judgment or, in other words, registered it with the district court. In doing so, plaintiffs cited section 12-652 of the Act (735 ILCS 5/12-652 (West 2024)) and section 1332 of title 28 of the United States Code (28 U.S.C. § 1332 (2018)), the diversity statute. On July 1, 2024, in the district court, defendants moved to vacate the registration of the New Jersey judgment. One of the reasons the motion gave for the proposed vacation of the registration was that cross-claims were still pending in the New Jersey case and, therefore, the judgment of the superior court was not final.

¶ 7 On November 6, 2024—again pursuant to section 12-652—while defendants' motion in the district court was still pending, plaintiffs initiated the present case by filing, in the Brown County circuit court, the New Jersey court's judgment. At the same time, plaintiffs filed a

citation to discover assets.

¶ 8 On December 9, 2024, in the present case, defendants moved to vacate the registration of the foreign judgment and to dismiss the collection proceedings. Their motion invoked two subsections of section 2-619 of the Code of Civil Procedure (Code) (735 ILCS 5/2-619 (West 2024)).

¶ 9 The first subsection was (a)(3), which allowed a defendant to move for the dismissal of an action if "there [was] another action pending between the same parties for the same cause." *Id.* § 2-619(a)(3). Defendants observed that "Plaintiffs [were] trying to enforce the same judgment against the same defendants in Federal Court" and that a status hearing was scheduled in the federal case for December 13, 2024.

¶ 10 The second subsection of section 2-619 that the motion invoked was (a)(9), which allowed a defendant to move for the dismissal of an action if "the claim asserted against [the] defendant [was] barred by other affirmative matter avoiding the legal effect of or defeating the claim." *Id.* § 2-619(a)(9). The other affirmative matter, according to defendant's motion, was the fact that the cross-claims in the New Jersey case were still pending, making the New Jersey judgment not yet enforceable. Under Illinois Supreme Court Rule 277(a) (eff. Oct. 1, 2021), "[a] supplementary proceeding authorized by section 2-1402 of the Code *** [(735 ILCS 5/2-1402 (West 2024)) might] be commenced at any time with respect to a judgment which [was] subject to enforcement." Defendants argued in their motion that, under New Jersey Court Rule 4:42-2(a) and (b) (N.J. Ct. R. 4:42-2(a), (b) (eff. Sept. 1, 2022)), a nonfinal judgment could be neither appealed nor enforced absent a judicial finding that there was no just reason to delay enforcement. The New Jersey court had made no such finding.

¶ 11 Alternatively, if the circuit court rejected both of those asserted bases for

dismissal, defendants' motion requested that, pursuant to section 12-654(b) of the Act (735 ILCS 5/12-654(b) (West 2024)), the circuit court stay enforcement of the New Jersey judgment until the cross-claims were resolved and defendants consequently had an opportunity to appeal the New Jersey judgment.

¶ 12 On December 27, 2024, in the present case, plaintiffs filed a "Motion for Turnover and Sale of Rudy Marmelo's Real Estate." According to this motion, Marmelo owned three parcels of real estate in Brown County, and on October 4, 2024, he granted to Michael A. Buckley, Jean C. Buckley, and Home Again Farm, LLC, a right of first refusal on those three parcels. Additionally, according to plaintiffs' motion, Marmelo owned a house in Quincy, Illinois. Pursuant to section 2-1402 of the Code, plaintiffs requested that the circuit court order the public sale of the three parcels and the house.

¶ 13 On January 7, 2024, the circuit court entered an order granting in part and denying in part defendants' motion to vacate the registration of the foreign judgment and to dismiss the citation proceedings. The order contained the following five provisions.

¶ 14 First, pursuant to section 2-619(a)(3) of the Code, the circuit court stayed the present proceedings until resolution of the federal case.

¶ 15 Second, the circuit court declined to dismiss the present case pursuant to subsections (a)(3) or (a)(9).

¶ 16 Third, the circuit court denied the request for a stay under section 654 of the Act. (This is the provision of the court's ruling that defendants appeal.)

¶ 17 Fourth, plaintiffs voluntarily dismissed the citations that had been issued to several financial institutions.

¶ 18 Fifth, while the present case was stayed, the New Jersey judgment would remain

registered in Brown County, and plaintiffs would submit a proposed memorandum of judgment.

¶ 19 II. ANALYSIS

¶ 20 Defendants contend that because the New Jersey court's order of March 8, 2024, left their cross-claims unresolved, the order, despite its title, was not truly a final judgment. To show that the order was nonfinal under New Jersey court rules, defendants cite New Jersey Court Rule 4:42-2(a) (eff. Sept. 1, 2022), which provides as follows:

> "(a**)** If an order would be subject to process to enforce a judgment pursuant to R. 4:59 [(N.J. Ct. R. 4:59 (eff. Sept. 1, 2022))] if it were final and if the trial court certifies that there is no just reason for delay of such enforcement, the trial court may direct the entry of final judgment upon fewer than all the claims as to all parties, but only in the following circumstances: (1) upon a complete adjudication of a separate claim; or (2) upon complete adjudication of all the rights and liabilities asserted in the litigation as to any party; or (3) where a partial summary judgment or other order for payment of part of a claim is awarded."

The order of March 8, 2024, lacks a certification that there is no just reason to delay enforcement of the order. Therefore, by defendants' reasoning, the order should not have been designated as a final judgment. Defendants also quote *Silviera-Francisco v. Board of Education of City of Elizabeth*, 129 A.3d 1032, 1038 (N.J. 2016): "[I]n a multi-party, multi-issue case, an order granting summary judgment, dismissing all claims against one of several defendants, is not a final order subject to appeal as of right until all claims against the remaining defendants have been resolved by motion or entry of a judgment following a trial."

¶ 21 We note the existence of case law holding that "nonfinal orders or judgments are

not entitled to full faith and credit." *Hooks v. Hooks*, 771 F.2d 935, 948 (6th Cir. 1985); see *Arco v. Travelers Insurance Co.*, 730 F. Supp. 59, 64 (W.D. Mich. 1989). However, a motion for a stay pursuant to section 12-654 of the Act (735 ILCS 5/12-654 (West 2024)) presupposes that the judgment to be stayed is entitled to full faith and credit—and, hence, is final. Section 12-654 provides as follows:

> "(a) If the judgment debtor shows the circuit court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.
>
> (b) If the judgment debtor shows the circuit court any ground upon which enforcement of a judgment of any circuit court for any county of this State would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this State." *Id.*

That section repeatedly uses the term "foreign judgment," which, in the Act, is a specially defined term. Under section 12-651 (*id.* § 12-651), the term " [']foreign judgment['] means any judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this State." Such a judgment is one to which "the courts of the State from which the judgment emerged would" give preclusive effect. (Internal quotation marks omitted.) *Arco*, 730 F. Supp. at 64. A judgment that has preclusive effect is an enforceable judgment.

¶ 22 So, the motion for a stay suffered from a self-contradiction. In the proceedings below, defendants contradicted themselves by, on the one hand, moving for a stay under section 12-654 and, on the other hand, arguing that the judgment was unenforceable on the ground of nonfinality. Staying the enforcement of the New Jersey judgment, as defendants requested the circuit court to do, would have presupposed that the judgment was final and that the judgment, therefore, would have been otherwise enforceable.

¶ 23 For that reason, in the text of section 12-654, the nonfinality of a judgment is not one of the listed grounds for staying the enforcement of a judgment. Instead, the four grounds are these: (1) an appeal from the foreign judgment is pending, (2) such an appeal will be taken, (3) a stay of execution has been granted, or (4) the judgment debtor has shown a ground on which enforcement of a judgment of any Illinois circuit court would be stayed. 735 ILCS 5/12-654 (West 2024).

¶ 24 The question for us, on appeal, is whether the circuit court abused its discretion by finding none of grounds in section 12-654 to be applicable to this case. See *Menard County Housing Authority v. Johnco Construction, Inc.*, 341 Ill. App. 3d 460, 463 (2003). A decision represents an abuse of discretion if the decision is unreasonable or arbitrary. See *People v. Rivera*, 2013 IL 112467, ¶ 37. We are unconvinced that the circuit court's denial of defendant's motion for a stay meets that description.

¶ 25 For one thing, it does not appear that defendants have appealed the New Jersey judgment. See 735 ILCS 5/12-654(a) (West 2024). Nor does it appear that, in the proceedings below, defendants presented any evidence that, since the entry of the New Jersey judgment, defendants had done anything to prosecute their cross-claims—an omission that could reasonably cause the circuit court to be skeptical that they would ever appeal the New Jersey

judgment. See *id.* In fact, without the docket sheets from the New Jersey case, it is unclear whether the cross-claims were still viable by the time the New Jersey court entered its judgment—there could have been a reason why the judgment was silent regarding the cross-claims. The "foreign judgment" of the New Jersey court is "presumed valid," and defendants "must rebut this presumption." *All Seasons Industries, Inc. v. Gregory*, 174 Ill. App. 3d 700, 703 (1988). By filing with the circuit court a copy of their answer and cross-claims from the New Jersey case, all that defendants did was establish that they filed the answer and cross-claims in the New Jersey case. The mere fact of that filing revealed nothing about the status of the cross-claims in the New Jersey case or whether they were still live claims.

¶ 26 A further reason why a stay would have been statutorily unjustified was the lack of evidence that the New Jersey court had stayed the execution of its judgment. See 735 ILCS 5/12-654(a) (West 2024). Nor have defendants shown "any ground upon which enforcement of a judgment of any circuit court for any county in this State would be stayed." *Id.* § 12-654(b). Finally, defendants have provided no security for satisfaction of the judgment. See *id.* § 12-654(a), (b).

¶ 27 It is irrelevant whether, in the proceedings below, plaintiffs raised all these reasons for denying a stay. It is well-established that "an appellee may argue in support of the judgment on any basis which appears in the record" (*Hayes v. Board of Fire & Police Commissioners of Village of Clarendon Hills*, 230 Ill. App. 3d 707, 710 (1992)) and that we may affirm the circuit court's judgment on any grounds that have support in the record (see *Water Tower Realty Co. v. Fordham 25 E. Superior, L.L.C.*, 404 Ill. App. 3d 658, 665 (2010)), regardless of whether those grounds were raised below (see *Redd v. Woodford County Swine Breeders, Inc.*, 54 Ill. App. 3d 562, 565 (1977)).

¶ 28 In sum, then, for the reasons we have explained, we are unable to agree with defendants that the denial of their motion for a stay pursuant to section 12-654 of the Act represented an abuse of discretion. See *Johnco*, 341 Ill. App. 3d at 463.

¶ 29 III. CONCLUSION

¶ 30 For the reasons stated, we affirm the circuit court's judgment.

¶ 31 Affirmed.