Affirmed and Memorandum Opinion filed June 16, 2020.

In The

Fourteenth Court of Appeals

NO. 14-19-00070-CV

KYEKYEKU OPOKU-PONG, Appellant

V.

PRISCILLA BOAHEMAA, Appellee

On Appeal from the County Civil Court at Law No. 2
Harris County, Texas
Trial Court Cause No. 1105370

M E M O R A N D U M O P I N I O N

Appellant Kyekyeku Opoku-Pong appeals a final judgment awarding to appellee Priscilla Boahemaa as her sole property a vehicle that Opoku-Pong and Boahemaa jointly purchased. He raises evidentiary issues and complains that no record was made from the bench trial resulting in the final judgment. We conclude that Opoku-Pong has not shown error in the judgment. Therefore, we affirm.

Background

Boahemaa, unrepresented by counsel, sued Opoku-Pong in Harris County Civil Court at Law No. 2, seeking to transfer title and a loan regarding a 2014 Toyota 4Runner solely to her name. In July 2014, she and Opoku-Pong purchased the 4Runner and obtained financing together while they were living in Massachusetts. According to Boahemaa, a vehicle that Opoku-Pong had gifted her was used as a trade-in to help purchase the 4Runner. Title to the 4Runner was in both their names.

Boahemaa and Opoku-Pong subsequently refinanced the 4Runner in Opoku-Pong's name only due to his favorable credit score. The 4Runner was used as a "family vehicle," until Boahemaa ended the relationship and relocated to Texas with the couple's child, taking the 4Runner. Boahemaa claimed to have made all loan payments on the 4Runner since its purchase. Boahemaa filed suit because Opoku-Pong refused to transfer the 4Runner's title to her.

Opoku-Pong, also unrepresented by counsel, filed an answer. He claimed that he owned the vehicle used as a trade-in down payment for the 4Runner. He stated that if Boahemaa reimbursed him for the down payment, he would transfer the 4Runner's title and loan to her.

The court, Honorable Teresa Chang, conducted a bench trial in September 2018, and a reporter's record from that proceeding is contained in our record on appeal. After hearing testimony from both Boahemaa and Opoku-Pong and after admitting exhibits, the trial court ordered the parties to mediation.

The record is unclear whether mediation occurred, but the parties reappeared for a second bench trial on December 17, 2018. Unlike the September proceeding, we have no reporter's record from the December 17 trial. The trial court signed a final judgment that day, ordering that: (1) the 4Runner is the sole property of

Boahemaa, who must continue making loan payments; (2) Opoku-Pong transfer the loan and title to Boahemaa; and (3) the Texas Department of Motor Vehicles issue title to Boahemaa, with the first lienholder as shown. According to the judgment, the Honorable Sharolyn Wood presided over the December 17 trial. The record contains neither findings of fact nor a request for them. Opoku-Pong timely appealed.

Analysis

In his first three issues, Opoku-Pong contends that the judge presiding over the December 17 trial ignored "decisions and directives from the previous court sessions," failed to consider that he and Boahemaa "were not married and maintained different finance[s] during their cohabitation," and did not consider who made the down payment for the 4Runner. In a fourth issue, he complains that a record of the December 17 hearing was not made and thus is "not available so that it can be tendered as evidence." We address Opoku-Pong's last issue first because it is dispositive of this appeal.

Opoku-Pong has not provided a reporter's record of the December 17 proceeding. He complains that a record was not made. However, a complaint such as his must be preserved in the trial court by request or objection before it may be raised on appeal. Tex. R. App. P. 33.1(a); *see also Giles v. Fed. Nat'l Mortg. Ass'n*, No. 14-14-00931-CV, 2016 WL 308575, at *1 (Tex. App.—Houston [14th Dist.] Jan. 26, 2016, no pet.) (mem. op.) (explaining that appellant failed to preserve error about lack of reporter's record on appeal by not bringing alleged error to attention of trial court); *Emesowum v. Morgan*, No. 14-13-00397-CV, 2014 WL 3587385, at *2 (Tex. App.—Houston [14th Dist.] July 22 2014, pet dism'd) (mem. op.) (same). Nothing in our record indicates that Opoku-Pong either requested a record be made or objected to the reporter's failure to make a record. Tex. R. App. P. 33.1(a); *see*

also Giles, 2016 WL 308575, at *1; *Emesowum*, 2014 WL 3587385, at *2.[1] Thus, we conclude that Opoku-Pong failed to preserve his fourth issue, and we overrule it.

In his first three issues, Opoku-Pong asserts that the judge presiding over the December 17 trial failed to consider certain facts or "ignore[d] decisions and directives" from the judge presiding over the September trial. We construe these arguments as evidentiary sufficiency points or purported evidentiary errors. Both types of appellate complaints require an adequate record to enable an appellate court to determine whether legally or factually sufficient evidence supports the judgment or whether the admission or exclusion of evidence was harmful error. *See, e.g.*, *Palla v. Bio-One, Inc.*, 424 S.W.3d 722, 727 (Tex. App.—Dallas 2014, no pet.) ("Issues depending on the state of the evidence cannot be reviewed without a complete record, including a reporter's record."). An appellant bears the burden to bring forward a sufficient record to show that the trial court erred. *E.g.*, *Christiansen v. Prezelski*, 782 S.W.2d 843, 843 (Tex. 1990); *Lucas v. Savage*, No. 14-18-00836-CV, 2019 WL 6317674, at *3 (Tex. App.—Houston [14th Dist.] Nov. 26, 2019, no pet.) (mem. op.). Although some circumstances obviate the need for a complete record, such as a partial record appeal or the resolution of a legal issue that does not require the review of evidence, these exceptions do not apply here. *See King's River Trail Ass'n, Inc. v. Pinehurst Trail Holdings, L.L.C.*, 447 S.W.3d 439, 449-51 (Tex. App.—Houston [14th Dist.] 2014, pet. denied). Absent a complete record, we must presume that the trial court heard sufficient evidence to make all necessary findings needed to support its judgment. *See Nicholson v. Fifth Third Bank*, 226 S.W.3d 581, 583 (Tex. App.—Houston [1st Dist.] 2007, no pet.) ("When there is no reporter's record made and there are no findings of fact, we assume the trial court heard

[1] Moreover, his brief, liberally construed, contains no argument or authority in support of this issue. *See* Tex. R. App. P. 38.1(i).

sufficient evidence to make all necessary findings in support of its judgment."); *Sandoval v. Comm'n for Lawyer Discipline*, 25 S.W.3d 720, 722 (Tex. App.—Houston [14th Dist.] 2000, pet. denied) (overruling evidentiary sufficiency issues where appellant failed to bring forth a complete reporter's record or comply with Tex. R. App. P. 34.6(c)); *cf. also Bryant v. United Shortline Inc. Assurance Servs., N.A.*, 972 S.W.2d 26, 31 (Tex. 1998) ("We indulge every presumption in favor of the trial court's findings in the absence of a statement of facts."); *Approx. $1,013.00 v. State*, No. 14-10-01255-CV, 2011 WL 5998318, at *3 (Tex. App.—Houston [14th Dist.] Dec. 1, 2011, no pet.) (mem. op.) (explaining that, in the absence of a reporter's record, "we must conclude that all findings made by the trial court were supported by evidence at the hearing").

Further, absent a reporter's record, we cannot determine that the trial court abused its discretion in making any evidentiary rulings. *See, e.g.*, *Sherwood v. Sherwood*, No. 09-15-00133-CV, 2016 WL 747291, at *1 (Tex. App.—Beaumont Feb. 25, 2016, no pet.) (mem. op.) ("Without a record demonstrating the challenged [evidentiary] ruling, we cannot determine whether the trial court abused its discretion."); *Huston v. United Parcel Serv., Inc.*, 434 S.W.3d 630, 636 (Tex. App.—Houston [1st Dist.] 2014, pet. denied) ("The appellant's failure to obtain a reporter's record containing a challenged ruling makes it impossible for the appellate court to determine that the trial court abused its discretion in making the ruling."); *Benjamin v. Benjamin*, No. 01-10-01003-CV, 2013 WL 4507848, at *2 (Tex. App.—Houston [1st Dist.] Aug. 22, 2013, no pet.) (mem. op.) (appellant cannot prevail on any evidentiary challenges without meeting his burden to present a sufficient record on appeal).

Because Opoku-Pong has not brought forward a reporter's record from the December 17 trial, we are unable to evaluate the merits of his complaints. We

conclude that Opoku-Pong has not shown that the trial court erred in signing a judgment in Boahemaa's favor. We overrule Opoku-Pong's first three issues.

We affirm the trial court's judgment.

/s/ Kevin Jewell
Justice

Panel consists of Justices Christopher, Jewell, and Spain.