

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

CITY OF SPRINGDALE, OHIO,	:	APPEAL NO. C-120614
Plaintiff-Appellee,	:	TRIAL NO. A-0506641
vs.	:	<i>JUDGMENT ENTRY.</i>
MORRIS K. HINTON, JR.,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Morris K. Hinton, Jr., appeals pro se from the trial court's denial of his motions challenging judgments entered against him in this case in 2006 and 2008. Plaintiff-appellee, the City of Springdale, Ohio, had brought suit for Hinton's failure to comply with its zoning and property-maintenance codes, and for the eventual demolition of the dilapidated structures on Hinton's property.

At all times relevant to this case, Hinton has been incarcerated in state prison. He had given a limited power of attorney to Gail Wilson to collect rent and pay bills associated with his Springdale property. Nonetheless Hinton failed to maintain the property. The city brought a public-nuisance action. Hinton's pro bono attorney communicated with Wilson and filed an answer to the complaint. In 2006, the trial court entered summary judgment for Springdale. When Hinton failed to take

corrective action, the court entered an order of demolition in 2008. The record reflects that the structures on Hinton's property have been demolished.

In March 2009, Hinton filed a motion for relief from judgment, in addition to numerous other motions not now at issue. The trial court denied the motions. This court dismissed Hinton's appeal of that decision for his failure to file an appellant's brief. In early 2012, Hinton filed a second motion for relief from judgment, a motion for summary judgment, and ultimately, a motion for findings of fact and conclusions of law. The trial court denied each motion and this appeal ensued.

In his first assignment of error, Hinton argues that the trial court erred in denying his request for findings of fact and conclusions of law to explain its 2012 ruling denying his motion for relief from judgment. *See* Civ.R. 52. Since a trial court is not required to provide findings of fact and conclusions of law in connection with the denial of a Civ.R. 60(B) motion for relief from judgment, the assignment of error is overruled. *See Briggs v. Deters*, 1st Dist. No. C-961068, 1997 Ohio App. LEXIS 2724, *5 (June 25, 1997). Although Hinton has proceeded pro se, he is subject to the same rules and procedures as those litigants who retain counsel. *See Meyers v. First Natl. Bank*, 3 Ohio App.3d 209, 210, 444 N.E.2d 412 (1st Dist.1981).

In his second assignment of error, Hinton contends that the trial court erred in denying his January 27, 2012 motion for relief from judgment made under Civ.R. 60(B)(5). The motion was based upon the same issues and facts advanced in Hinton's first, March 2009 motion for relief from judgment: that his pro bono attorney's failure to adequately communicate with Hinton in 2005 called into question the trial court's 2006 and 2008 judgments.

We review the trial court's decision denying relief from judgment under an abuse-of-discretion standard. *See Harris v. Anderson*, 109 Ohio St.3d 101, 2006-Ohio-1934, 846 N.E.2d 43, ¶ 7. Our resolution of this assignment of error rests upon the strong public interest in preserving the finality and sanctity of judgments and in protecting litigants and others from prejudice caused by opening a judgment after a long delay. *See generally In re Dissolution of Marriage of Watson*, 13 Ohio App.3d 344, 347, 469 N.E.2d 876 (9th Dist.1983). Civ.R. 60(B) represents an attempt to strike a balance between these principles and the competing principle that justice should be done. *See Colley v. Bazell*, 64 Ohio St.2d 243, 248, 416 N.E.2d 605 (1980); *see also In re Whitman*, 81 Ohio St.3d 239, 690 N.E.2d 535 (1998).

The doctrine of res judicata, however, prevents the successive filing of Civ.R. 60(B) motions for relief from a valid, final judgment when the motions are based upon the same facts and same grounds that were raised in the prior motion. *Harris*, 109 Ohio St.3d 101, 2006-Ohio-1934, 846 N.E.2d 43, at ¶ 8. Res judicata is a prudential doctrine that precludes the relitigation of a point of law or fact that was at issue in a former action between the same parties and that was passed upon by a court of competent jurisdiction. *See Godfrey v. Ohio Bur. of Workers' Comp.*, 1st Dist. No. C-061055, 2007-Ohio-5575, ¶ 10, citing *State ex rel. Kroger Co. v. Indus. Comm.*, 80 Ohio St.3d 649, 651, 687 N.E.2d 768 (1998). Because Hinton's second Civ.R. 60(B) motion was based on the same grounds and facts raised in his first motion, his second motion was barred by res judicata.

The trial court did not abuse its discretion since its decision to deny the motion is supported by a sound reasoning process. *See AAAA Ents., Inc. v. River*

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Place Community Urban Redev. Corp., 50 Ohio St.3d 157, 161, 553 N.E.2d 597 (1990). The second assignment of error is overruled.

Hinton's third assignment of error, in which he asserts that the trial court erred in denying his March 13, 2012 motion for summary judgment, is also overruled. Hinton couched his motion in the terms of Civ.R. 56, which provides for the resolution of claims, counterclaims, or cross-claims where no genuine issues of material fact remain for trial. But, reduced to its essence, Hinton's motion simply sought an expedited ruling on his January 27, 2012 motion for relief from judgment. Since the trial court has ruled on the Civ.R. 60(B)(5) motion, Hinton cannot demonstrate any error flowing from the trial court's denial of his March 13 motion.

The trial court's judgment is affirmed.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., HILDEBRANDT and CUNNINGHAM, JJ.

To the clerk:

Enter upon the journal of the court on April 19, 2013

per order of the court _____.
Presiding Judge