

STATE OF MICHIGAN
COURT OF APPEALS

UNICAL INTERNATIONAL, INC., d/b/a
NATIONAL DISTRIBUTORS,

UNPUBLISHED
April 29, 1997

Plaintiff-Appellee,

v

No. 191702
Ingham Circuit Court
LC No. 95-079880-CZ

ADEL MANUEL and IMAD MANUEL,

Defendants-Appellants.

Before: Griffin, P.J., and Doctoroff and Markman, JJ.

PER CURIAM.

Defendants appeal as of right from an order dismissing their motion not to enforce and to set aside a default judgment obtained by plaintiff in California. Defendants claimed that the California court lacked personal jurisdiction and that the judgment was invalid. We affirm the order with regard to Adel Manuel but reverse and remand with regard to Imad Manuel.

Defendants were corporate officers in a company called The Magic of 99 Cents, Inc., a dollar store. In order to obtain credit from plaintiff, defendant Adel Manuel executed a document entitled “guaranty of account” on behalf of “Imad Manuel, d/b/a Magic of 99¢” which provided that the signatory agreed to unconditionally guarantee payment of any amounts owing to plaintiff by the named corporation or individual. However, the signature line on the document where Imad Manuel was apparently to have signed was blank. After the company subsequently filed for bankruptcy, plaintiff obtained a default judgment against defendants in California and brought suit to enforce the judgment in the circuit court. The court did not make any findings with regard to jurisdiction and entered an order finding the California judgment to be valid while dismissing defendants’ motion to set aside the judgment.

The trial court erred in failing to make a determination with regard to whether the California court had personal jurisdiction over defendants. Under MCR 2.612(C)(1)(d), relief “must be granted [to the party seeking to set aside the judgment] if the judgment is void.” A judgment is void, *inter alia*, if a court lacks personal jurisdiction over a party. *Ward v Hunter Machinery Co*, 263 Mich 445, 452; 248 NW 864 (1933); *Abbott v Howard*, 182 Mich App 243, 247-248; 451 NW2d 597 (1990).

Here, the trial court did not address jurisdiction. However, this Court's review of this issue is de novo; therefore, where the facts necessary to resolve the issue are undisputed, the question of the extent of the California court's jurisdiction may be resolved on appeal. *Jeffrey v Rapid American Corp*, 448 Mich 178, 184; 529 NW2d 644 (1995); *Jodway v Kennametal, Inc*, 207 Mich App 622, 632; 525 NW2d 883 (1994).

With regard to Adel Manuel, the California court had personal jurisdiction to enter the judgment on the basis of Adel Manuel's signature evidencing his consent to that court's exclusive jurisdiction over disputes arising in connection with the guaranty agreement. "It is sufficient for purposes of due process that the suit . . . [be] based on a contract which . . . [has] a substantial connection with that State." *McGee v International Life Ins Co*, 355 US 220, 223; 78 S Ct 199; 2 L Ed 2d 223 (1957). In this case, the contract specifically stated that any disputes were to be litigated in Los Angeles County, California, and that the guarantors waived their right to litigate elsewhere. Therefore, Adel Manuel's contacts with California are sufficient such that he had "reason to expect to be haled before" California's courts. *Schaffer v Heitner*, 433 US 186, 216; 97 S Ct 2569; 53 L Ed 2d 683 (1977); see also *Burger King Corp v Rudzewicz*, 471 US 462, 473; 105 S Ct 2174; 85 L Ed 2d 528 (1985); *International Shoe v Washington*, 326 US 310, 316, 319; 66 S Ct 154; 90 L Ed 95 (1945). Whether there was credit extended under the agreement and whether the credit was extended to Imad Manuel in his personal or corporate capacity are questions of fact going to the merits of the case that may not be reconsidered by this Court once it is determined that jurisdiction in the out-of-state court exists. *Peters Production Co v Desnick Broadcasting Co*, 171 Mich App 283, 286; 429 NW2d 654 (1988).

However, because Imad Manuel did not sign the guaranty agreement, there is no evidence before us that he agreed to subject himself to the jurisdiction of the California courts. Consequently, we reverse the trial court's order with regard to Imad Manuel and remand for determination whether he was otherwise subject to the jurisdiction of the California courts.

We decline to review defendants' claim that the judgment was fraudulently obtained because it was not raised in their statement of questions presented. *Hammack v Lutheran Social Services*, 211 Mich App 1, 7; 535 NW2d 215 (1995).

Affirmed with regard to Adel Manuel but reversed and remanded with regard to Imad Manuel. We do not retain jurisdiction.

/s/ Richard Allen Griffin

/s/ Martin M. Doctoroff

/s/ Stephen J. Markman