STATE OF MICHIGAN

COURT OF APPEALS

BARBARA A. SUMMERS,

Plaintiff-Appellee,

v

HARRY W. SUMMERS,

Defendant-Appellant.

UNPUBLISHED
November 14, 1997

No. 196883
Ottawa Circuit Court
LC No. 95-023363-DM

Before: O'Connell, P.J., and MacKenzie and Gage, JJ.

PER CURIAM.

Defendant appeals as of right from the entry of a default judgment of divorce. We affirm.

On July 20, 1995, plaintiff filed a complaint for divorce against defendant. Because defendant failed to plead or otherwise defend within twenty-one days of being served, a default was entered against him the following October. Defendant's attorney then entered an appearance, and in January 1996, defendant moved to set aside the default. Following a February 5 hearing, the trial court denied defendant's motion from the bench.

On March 26, 1996, plaintiff filed a motion to enter judgment and proof of service. Notice of hearing on this motion was mailed to defendant's counsel at the address found in the 1995 Michigan Bar Directory. That address proved to be inaccurate and defendant's attorney did not receive notice of the motion until April 1, 1996, four days before the hearing. Following a two-day hearing on the motion, April 5 and June 13, 1996, the trial court entered the default judgment of divorce.

Defendant first argues that the trial court erred in not granting his motion for an adjournment on the day of the April 5, 1996, hearing because plaintiff did not provide defense counsel seven days' notice of the hearing on the motion for entry of default judgment, as required under MCR 2.603(B)(1). We review a trial court's decision whether to grant or deny a motion for an adjournment for an abuse of discretion. *Lansing v Hartsuff*, 213 Mich App 338, 350; 539 NW2d 781 (1995). Under the circumstances of this case, we find no abuse of discretion. The purpose of the notice requirement of MCR 2.603(B)(1) is to inform defaulting parties of the possibility of entry of judgment so that they may have an opportunity to participate in any hearing

necessary to ascertain the amount of damages or other form of remedy to be granted. *Dollar Rent-A-Car Systems v Nodel Construction*, 172 Mich App 738, 743; 432 NW2d 423 (1988). However, this Court has recently held that a defaulting party in a divorce case is not necessarily entitled to the full participatory rights normally associated with the entry of a default judgment. *Draggoo v Draggoo*, 223 Mich App 415; 566 NW2d 642 (1997). Furthermore, it is difficult to see how defendant was prejudiced by the court's failure to grant an adjournment. *Hartsuff, supra*. Two months had passed since the court denied defendant's motion to set aside the default, providing ample time to prepare for the eventual entry of a default judgment. Upon receiving notice of the hearing, counsel still had four days to prepare for the first day of the hearing, and a full 2½ months to prepare for the second day. On this record, we are satisfied that failure to adjourn the first day did not impair defendant's rights nor did it amount to an abuse of discretion.

Defendant next argues that the trial court erred in issuing an ex parte order for child support. MCR 3.207(B)(1) provides that a court may enter an ex parte order in a domestic relations action if it is satisfied by specific facts set forth by affidavit or pleading that "irreparable injury, loss, or damage will result from the delay required to effect notice, or that notice itself will precipitate adverse action before an order can be issued." Here, plaintiff sufficiently set forth in her motion specific facts that irreparable injury, loss, or damage would result from the delay required to effect notice. Specifically, plaintiff averred that she was suffering "severe financial distress" and that defendant's attorney could not be notified because the attorney was on vacation. Given these allegations, it cannot be said that the trial court abused its discretion in issuing the ex parte order for defendant to pay child support.

Defendant also argues that the trial court erred in finding that he had defaulted on the issue of child support and adopting the child support award offered in plaintiff's proposed default judgment of divorce. Again, we disagree. At the hearings on entry of the default judgment, defendant never sought a particular level of child support. Although he presented some evidence concerning the financial affairs of a corporation he owned, he presented no evidence concerning his personal income. Because defendant gave the court no meaningful information from which to fashion a support award in an amount different from that requested by plaintiff, we decline to reverse on this basis.

Defendant finally argues that the trial court erred in ordering defendant to pay the parties' home equity loan because the trial court intended to equally divide the net equity in the marital home. We review a trial court's dispositional ruling for abuse of discretion and will affirm the ruling unless we are left with the firm conviction that the division was inequitable. *Sands v Sands*, 442 Mich 30, 34; 497 NW2d 493 (1993). Our review of the record reveals that the trial court's decision to assign the home equity loan to defendant turned on its decision not to order defendant to pay alimony. In light of this tradeoff, we are not left with a firm conviction that the division was inequitable.

Affirmed.

/s/ Peter D. O'Connell
/s/ Barbara B. MacKenzie
/s/ Hilda R. Gage