

STATE OF MICHIGAN
COURT OF APPEALS

MOON LAKE CONDOMINIUM ASSOCIATION,

Plaintiff-Appellee,

v

EDA BRAITMAN f/k/a EDA ELEZAROFF,

Defendant-Appellant.

UNPUBLISHED

August 1, 1997

No. 187768

Oakland Circuit Court

LC No. 94-481833

Before: Murphy, P.J., and Kelly and Gribbs, JJ.

PER CURIAM.

Defendant appeals as of right from an order denying his motion for reconsideration of an order that granted summary disposition in favor of plaintiff pursuant to MCR 2.116(C)(9) and (C)(10) in this action for foreclosure on a condominium association lien for unpaid assessments. We affirm.

Plaintiff filed this action against defendant, a condominium owner, to foreclose on a lien placed on her property to secure payment of unpaid condominium association assessments. Instead of filing an answer to plaintiff's complaint, defendant filed a motion to dismiss, alleging that plaintiff failed to comply with certain conditions precedent to filing an action to foreclose on a condominium lien as set forth in the Moon Lake Condominium By-Laws. Defendant failed to appear at the hearing on her motion to dismiss, and thereafter failed to re-praecepe her motion.

After an unsuccessful attempt at settlement, plaintiff filed a motion for summary disposition pursuant to MCR 2.116(C)(9) and (C)(10). Defendant did not contest the motion for summary disposition, nor did she appear at the hearing on the matter. Therefore, the trial court granted plaintiff's motion for summary disposition on May 3, 1995. Plaintiff then filed a motion for reconsideration pursuant to MCR 2.119(F) on May 24, 1995, alleging that the trial court erred in failing to consider her affirmative defenses before it took action on plaintiff's motion for summary disposition. The trial court denied defendant's motion for reconsideration, because it was untimely.

On appeal, defendant first argues that the trial court abused its discretion by refusing to grant her motion for reconsideration of the order granting plaintiff's motion for summary disposition. We disagree.

We review the trial court's decision to deny defendant's motion for reconsideration for an abuse of discretion. MCR 2.119(F)(3); *In Re Beglinger Trust*, 221 Mich App 273, 279; ___ NW2d ___ (1997). This Court will find an abuse of discretion only where an unprejudiced person, considering the facts on which the trial court acted, would say there was no justification or excuse for the ruling. *Club Ins Assoc v State Farm Ins Cos*, 221 Mich App 154, 167; ___ NW2d ___ (1997).

Defendant had fourteen days from May 3, 1995, in which to file her motion for reconsideration. MCR 2.119(F)(1); see also *Ramsey v Pontiac*, 164 Mich App 527, 538; 417 NW2d 489 (1987). In her argument before this Court, defendant disregards the fact that she filed her motion for reconsideration well past the fourteen-day limit. Because it was untimely, the trial court did not abuse its discretion by denying defendant's motion for reconsideration. *Supra.* at 538. We also note that we have reviewed defendant's contention that plaintiff failed to give her proper notice of this action, and find it utterly without merit.

Next, plaintiff argues that the trial court abused its discretion by awarding plaintiff attorney fees as the terms of the parties' contract and MCL 559.206(b); MSA 26.50(206)(b) provided, because it failed to make specific findings regarding the reasonableness of the requested fees and plaintiff and its counsel allegedly engaged in oppressive litigation tactics. Defendant failed to raise this issue in the trial court, and thus has not preserved it for our review. *Royce v Citizens Ins Co*, 219 Mich App 537, 545; 557 NW2d 144 (1996). Although we may review an unpreserved issue where failure to do so will result in manifest injustice or where it is necessary to a proper determination of the case, *Froling v Carpenter*, 203 Mich App 368, 373; 512 NW2d 6 (1993), we find no necessity or manifest injustice in this case. Upon reviewing the lower court records and the argument defendant presents on appeal, we find that attorney fees were properly awarded and appear reasonable in this matter.

Affirmed.

/s/ William B. Murphy

/s/ Michael J. Kelly

/s/ Roman S. Gribbs