STATE OF MICHIGAN

COURT OF APPEALS

BAYSHORE CANVAS, INC.,

Plaintiff-Counterdefendant-Appellee,

v

MOUNT HOLLYWOOD LIMITED PARTNERSHIP,

Defendant-Counterplaintiff,

and

FREDERICK W. DUEMLING, Trustee of the REVOCABLE LIVING TRUST UTA DTD,

Defendant,

and

KENNETH MITAN AND KEITH J. MITAN,

Defendants-Appellants,

and

MITAN AUTO MALL MANAGEMENT DEPARTMENT, INC.,

Defendant.

UNPUBLISHED
November 24, 1998

No. 204333
Macomb Circuit Court
LC No. 94-004603 CK

Before: Smolenski, P.J., and McDonald and Doctoroff, JJ.

PER CURIAM.

Defendants Kenneth Mitan and Keith J. Mitan appeal as of right from the May 21, 1996, entry of a default judgment granting plaintiff's damages, interest, and costs in the amount of $7,491.94. Defendants also appeal the trial court's failure to grant a motion to set aside a default judgment. We affirm.

Defendants argue on appeal that because they were not served properly under MCR 2.105(A)(2) at the commencement of this suit, the court never had personal jurisdiction over them and could not enter a personal decree against them. We disagree.

Issues regarding service of process generally do not implicate jurisdictional issues, as the court rules concerning service of process are not intended to limit or expand the jurisdiction given the Michigan courts over a defendant, but are meant to satisfy due process. MCR 2.105(J)(1). Here, although plaintiff mailed a summons and a copy of the complaint to defendants by registered mail, return receipt requested, plaintiff failed to restrict delivery to the addressees, as required by MCR 2.105(A)(2). However, defendants clearly had notice of plaintiff's suit against them in their individual capacities. The summonses and complaints were apparently received by the office receptionist at Mitan & Associates, P.C. Keith J. Mitan obviously received the complaint, as he answered as counsel for Mount Hollywood Limited Partnership and Mitan Auto Mall Management Department, Inc. He acknowledged at the hearing on May 1, 1995, that if the trial court did not grant the motion to amend the caption, he would have to file an answer on behalf of both himself and Kenneth. However, no answer was ever filed. Therefore, because defendants had actual notice of the lawsuit filed against them, we conclude that the trial court did not err in denying the motion to amend the caption to remove the Mitan defendants or in entering a default judgment against them. MCR 2.105(J)(3); *Bunner v Blow-Rite Insulation Co*, 162 Mich App 669, 673-674; 413 NW2d 474 (1987); *Alycekay Co v Hasko Construction Co, Inc*, 180 Mich App 502, 505-506; 448 NW2d 43 (1989).

Defendants also assert that entry of the default judgment on May 21, 1997, was in error because they had not been properly served with notice of the entry of default on June 7, 1995. However, at the hearing on plaintiff's motion for entry of a default judgment, the court found that defendants had received notice of entry of default. We cannot conclude from the record before us that the trial court's finding was clearly erroneous. Furthermore, defendants received notice of plaintiff's motion to enter the default judgment and, therefore, had an opportunity to defend. Accordingly, defendants were not prejudiced by the alleged error. *Alycekay, supra,* 180 Mich App 506-507.

Finally, defendants contend that the trial court erred in failing to grant their motion to set aside the default judgment. However, because this issue was never properly before the trial court, and the court never ruled on it, we decline to address it. *Bowers v Bowers*, 216 Mich App 491, 495; 549 NW2d 592 (1996). Furthermore, defendants' motion did not indicate a good cause for setting aside the default, as required by MCR 2.603(D)(1). In their motion, defendants asserted that good cause to set aside the default judgment existed because they were never personally served. However, we have already concluded that, despite the technical defect in the service of process, defendants received actual notice of the lawsuit. In addition, the trial court found that defendants received notice of entry of the default.

Affirmed.

/s/ Michael R. Smolenski
/s/ Gary R. McDonald
/s/ Martin M. Doctoroff