

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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DANIEL GERING,

Plaintiff-Appellant,

v

SHARON K. GERING,

Defendant-Appellee.

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UNPUBLISHED  
October 29, 1999

No. 211415  
Wayne Circuit Court  
LC No. 94-432763 DM

Before: Whitbeck, P.J., and Saad and Hoekstra, JJ.

PER CURIAM.

Plaintiff appeals by leave granted an order granting defendant's motion for partial relief from a default judgment of divorce pursuant to MCR 2.612(C)(1)(f). We reverse.

I

Plaintiff filed for divorce in 1994, twenty-one years after he and defendant married. Plaintiff filed his divorce complaint in *propria persona*, but UAW Legal Services handled the divorce paperwork. Defendant did not have an attorney. Defendant and plaintiff negotiated a settlement whereby defendant received the equivalent of half of the parties' equity in their house, to be paid in \$8,000 cash plus a newly purchased Jimmy vehicle. Defendant also received a payment of \$1,000 for signing a quitclaim deed to their marital house, entitling plaintiff to retain the home, and a \$10,000 interest in plaintiff's retirement pension, payable in full upon plaintiff's retirement. Neither party received alimony or child support. The trial court entered a default judgment of divorce on May 22, 1995.

Defendant moved for partial relief from the default judgment on October 30, 1997. The trial court initially denied the motion, but later granted the motion upon reconsideration. The trial court found "extraordinary circumstances" warranting relief from the judgment, namely that defendant had suffered from a mental deficiency that rendered her incapable of making constructive decisions for herself during the divorce proceedings.

## II

Plaintiff contends that the trial court abused its discretion in setting aside the judgment because defendant failed to raise evidence that showed she was mentally or emotionally incapacitated during the divorce proceedings. We need not address this issue, because we conclude that defendant's motion was untimely, and should have been denied on that basis. MCR 2.612(C)(2) requires that the motion to set aside the judgment be made within a reasonable time from the entry of the judgment. *Tomblinson v Tomblinson*, 183 Mich App 589, 595; 455 NW2d 346 (1990). Defendant has offered no explanation for her delay of two and one-half years from the time the default judgment was entered until the filing of her motion to partially set aside the judgment. Indeed, she was advised by an attorney to seek counsel about the judgment of divorce approximately one year prior to filing her motion for relief from judgment. Absent any explanation by defendant, this lapse of time was unreasonable. *Roth v Roth*, 201 Mich App 563, 570; 506 NW2d 900 (1993).

Reversed.

/s/ William C. Whitbeck

/s/ Henry William Saad

/s/ Joel P. Hoekstra