

IN THE COURT OF APPEALS OF OHIO  
SIXTH APPELLATE DISTRICT  
ERIE COUNTY

Mountain States Adjustment

Court of Appeals No. E-11-013

Appellee,

Trial Court No. CVF-10-640

v.

Ida Mae Nath

**DECISION AND JUDGMENT**

Appellant.

Decided: December 30, 2011

\* \* \* \* \*

Jeffrey C. Turner, Boyd W. Gentry and Christopher T. Herman, for appellee.

William H. Smith, Jr., for appellant.

\* \* \* \* \*

SINGER, J.

{¶ 1} Appellant appeals a judgment of the Sandusky Municipal Court denying her motion for relief from judgment pursuant to Civ.R. 60(B). For the reasons that follow, we reverse.

{¶ 2} In 1993, appellant Ida Mae Nath, nka Cobb, and her husband, Richard, purchased a motor home. When, in 2004, Richard Nath died, appellant was no longer

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able to afford payments on the motor home to the lender, Bank of the West. According to appellant's brief on appeal, she surrendered the motor home and was advised of a deficiency of approximately \$18,000. Appellant maintains that she made an arrangement with the bank to pay \$100 monthly against the deficiency.

{¶ 3} On March 22, 2010, appellee, Mountain States Adjustment, apparently an assignee of the original note, brought suit on the loan contract. Appellee claimed a principal balance of \$12,731.02 plus accrued interest of \$6,468.29 was due on the note.

{¶ 4} Appellant did not answer appellee's complaint, but instead wrote a letter to appellee's counsel, asking for a work-out. It is not clear what, if any, response appellee's counsel tendered. On May 20, 2010, appellee moved for a judgment on the pleadings, attaching to the motion appellant's letter. Appellee characterized the letter as appellant's "answer." On June 11, 2010, the trial court granted appellee's motion. Appellee then proceeded to execute on the judgment.

{¶ 5} On November 22, 2010, appellant, through counsel, moved to vacate the June 11 judgment, principally on the grounds that the total amount sought in the complaint exceeded the court's \$15,000 monetary jurisdictional limit. Appellant also asserted that appellee had not properly established that it was an assignee of Bank of the West, nor had there been an accounting of the payments appellant made. Appellant additionally suggested in her motion, without articulating in what manner, that appellee violated the Fair Debt Collection Practices Act. Appellee filed a memorandum in opposition.

2.

{¶ 6} On January 24, 2011, the trial court denied appellant's motion. It is from that judgment that appellant now brings this appeal. Appellant sets forth two assignments of error:

{¶ 7} "Assignment of Error No. 1:

{¶ 8} "The trial court abused its discretion by failing to grant 60(B) relief from a judgment when appellant demonstrated that the municipal court lacked monetary jurisdiction and that the motion was timely filed.

{¶ 9} "Assignment of Error No. 2:

{¶ 10} "The trial court abused its discretion by failing to grant 60(B) relief from a judgment when appellant demonstrated a meritorious defense that a settlement existed and that plaintiff lacked standing to bring these proceedings."

#### Monetary Jurisdiction

{¶ 11} At the outset, we should point out that the judgment granted appellee should have been a default judgment rather than a judgment on the pleadings. The letter from appellant that appellee characterizes as an "answer" was never sent to the court nor entered into the record, save as an exhibit to appellee's motion. It is, thus, not a pleading within the meaning of Civ.R. 7 and cannot be considered. See *Burnside v. Leimbach* (1991), 71 Ohio App.3d 399, 402. Since no pleading was entered, the status of the case at the time of appellee's motion was that appellant had failed to plead or otherwise defend as provided by the civil rules and the motion was filed after the answer date. A motion for default judgment, pursuant to Civ.R. 55(A), would have been a more appropriate

3.

request. For either type of judgment, the remedy is the same, a motion for relief from judgment pursuant to Civ.R. 60(B).

{¶ 12} In her first assignment of error, appellant maintains that the principal and interest appellee sought in its complaint totaled more than \$19,000, well above the municipal court's monetary jurisdictional limit of \$15,000 as set forth in R.C. 1901.17. Citing *White v. Kent* (1988), 47 Ohio App.3d 105, appellant insists that it is plain error for a municipal court to award a judgment that exceeds its jurisdictional limit and, since the trial court in this matter did so, the initial judgment against appellant should have been set aside.

{¶ 13} If appellant was correct in her assertion that appellee's claim exceeded the court's monetary jurisdiction, it would take this case out of the purview of Civ.R. 60(B). R.C. 1901.18(A) defines the subject matter jurisdiction of a municipal court. Such jurisdiction is "subject to the monetary jurisdiction of municipal courts as set forth in [R.C.] 1901.17." If the amount in controversy exceeds the limit set in R.C. 1901.17, there is no subject matter jurisdiction and any judgment is void. *Goody v. Scott* (Oct. 18, 1995), 5th Dist No. 95CA31.

{¶ 14} R.C. 1901.17 provides, in material part:

{¶ 15} "A municipal court shall have original jurisdiction only in those cases in which the amount claimed by any party, or the appraised value of the personal property sought to be recovered, does not exceed fifteen thousand dollars, except that this limit does not apply to the housing division or environmental division of a municipal court.

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{¶ 16} "Judgment may be rendered in excess of the jurisdictional amount, when the excess consists of interest, damages for the detention of personal property, or costs accrued after the commencement of the action."

{¶ 17} The principal amount claimed in this suit was \$12,731.02. At the time the suit was initiated, interest on the principal in the amount of \$6,468.29 had accrued. Thus the total prayer for relief exceeded the court's monetary jurisdiction. The court was without subject matter jurisdiction to hear the case and the judgment at issue is void. Accordingly, appellant's first assignment of error is well-taken.

{¶ 18} Appellant's second assignment of error is moot.

{¶ 19} On consideration whereof, the judgment of the Sandusky Municipal Court is reversed and its order vacated. It is ordered that appellee pay the court costs of this appeal pursuant to App.R. 24.

JUDGMENT REVERSED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

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JUDGE

Arlene Singer, J.

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JUDGE

Stephen A. Yarbrough, J.  
CONCUR.

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JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:  
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