

[Cite as *Matrix Acquisitions, L.L.C. v. Higgs*, 2011-Ohio-3138.]

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
BUTLER COUNTY

MATRIX ACQUISITIONS, LLC,	:	
Plaintiff-Appellant,	:	CASE NO. CA2010-09-248
- vs -	:	<u>OPINION</u>
	:	6/27/2011
JEFF A. HIGGS,	:	
Defendant-Appellee.	:	

CIVIL APPEAL FROM FAIRFIELD MUNICIPAL COURT
Case No. 2010CVF0388

Cheek Law Offices, LLC, Jackson T. Moyer and Parri J. Hockenberry, 471 East Broad Street, 12th Floor, Columbus, Ohio 43215, for plaintiff-appellant

Jeff A. Higgs, 1143 Governors Drive, Fairfield, Ohio 45014, defendant-appellee, pro se

POWELL, P.J.

{¶1} The Fairfield Municipal Court erroneously vacated a default judgment on its own motion without a finding that such judgment was void or without receiving a Civ.R. 60(B) motion. Therefore, this court reverses the municipal court's decision to set aside the default judgment.

{¶2} Matrix Acquisitions, LLC filed a complaint in municipal court against Jeff

A. Higgs to collect charges and interest owed on a credit card account. Matrix moved for default judgment after Higgs failed to respond; the motion was granted June 8, 2010. Higgs appeared for a later hearing on garnishment of wages, but Matrix did not appear. According to the record, Higgs did not move to vacate the default judgment, but the municipal court noted a "mistake here," and "some things missing in the file" and set aside the default judgment. No findings were made or explanation given in the transcript or by entry.

{¶13} Matrix appealed the decision to vacate the default judgment, arguing in its two assignments of error that the municipal court erred in sua sponte vacating the judgment. Higgs did not file an appellate brief, and pursuant to App.R. 18(C), this court may accept Matrix's statement of facts and issues as correct, and then reverse the municipal court's judgment as long as Matrix's brief reasonably appears to sustain such action.

{¶14} Since the adoption of the Civil Rules, Civ.R. 60(B) provides the exclusive means for a trial court to vacate a final judgment. *Rice v. Bethel Assoc. Inc.* (1987), 35 Ohio App.3d 133, 134; *Cale Products, Inc. v. Orrville Bronze & Alum. Co.* (1982), 8 Ohio App.3d 375, 378; *Payton v. Payton* (Nov. 19, 2001), Fayette App. No. CA2001-01-002, 2001 WL 1463057.

{¶15} It is well-settled, however, that a trial court has its own inherent authority to set aside a void judgment. *Patton v. Diemer* (1988), 35 Ohio St.3d 68, paragraph four of the syllabus. And that authority is not derived from Civ.R. 60(B), but rather constitutes an inherent power possessed by Ohio courts. *Id.* The court's power to vacate a void judgment simply recognizes the fact that the judgment was always a nullity. See *Van DeRyt v. Van DeRyt* (1966), 6 Ohio St.2d 31, 36.

{¶6} There is no indication in the record that Higgs filed a Civ.R. 60(B) motion. Further, the record does not reflect on what basis, if any, the municipal court found its default judgment to be void. Accordingly, we conclude that the municipal court erred when it sua sponte vacated the default judgment entered against Higgs. Matrix's two assignments of error are well taken.

{¶7} Judgment reversed and this cause is remanded to the municipal court for further proceedings.

HENDRICKSON and HUTZEL, JJ., concur.