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IN THE
COURT OF APPEALS OF INDIANA

ASSOCIATED ESTATES REALTY CORPORATION,	)	
Appellant-Defendant,	)	
vs.	)	No. 49A02-1105-CT-426
ANGELA MASON,	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable David Dreyer, Judge
Cause No. 49D10-1003-CT-10192

October 13, 2011

MEMORANDUM DECISION – NOT FOR PUBLICATION

BARNES, Judge

Case Summary

Associated Estates Realty Corp. ("AERC") appeals the trial court's denial of its motion for relief from a default judgment obtained by Angela Mason. We reverse and remand.

Issue

The sole restated issue before us is whether the default judgment against AERC was void for lack of personal jurisdiction.

Facts

Mason alleges that, on or about April 18, 2008, she injured herself while moving into her apartment in the Waterstone Apartments complex in Indianapolis and that such injury was the result of negligent maintenance of the property. The Waterstone complex was owned by AERC Waterstone, LLC, which had a leasing office at 6710 Hollow Run Place in Indianapolis; the complex was managed by AERC of Indiana, LLC. Both of these entities were subsidiaries of AERC, which is based in Richmond Heights, Ohio. Both AERC subsidiaries also had a designated Indiana registered agent for service of process, CT Corporation System, located on East Ohio Street in Indianapolis.

After Mason's injury, she and her attorney had contacts with Kathleen Walczak of Crawford and Company, which is an Ohio-based claims adjuster working for AERC. In two communications with Mason or her attorney, Walczak referred to AERC as "Our Client" and mistakenly referred to the "Insured" as "Country Club Apartments." App. pp. 120, 124. In other documentation Walczak sent, she correctly referred to the Waterstone complex. AERC

has never had any connection to Country Club Apartments, which is another complex in Indianapolis.

On March 5, 2010, Mason filed a complaint against "Associated Estates Realty Corporation, d/b/a Country Club Apartments." App. p. 9. The summons and complaint was mailed to AERC d/b/a Country Club Apartments, with an address of 360 Sandra Lane in Indianapolis. An individual named D. Guzman signed the certificate of service for the summons and complaint. AERC did not respond to Mason's complaint.

On May 10, 2010, the trial court entered default judgment against AERC and scheduled a later hearing to determine damages. On August 13, 2010, the trial court awarded damages to Mason in the amount of $300,000. On September 13, 2010, counsel for Mason informed Walczak of the judgment against AERC, and she in turn informed AERC of it.

On October 4, 2010, AERC moved for relief from default judgment, asserting lack of service and lack of personal jurisdiction. On March 11, 2011, the trial court denied AERC's motion for relief from default judgment. AERC then filed a motion to correct error. On April 25, 2011, the trial court refused to completely vacate the default judgment, but it did vacate the damages award and set the matter for a new trial regarding damages. AERC now appeals.

Analysis

AERC asserts that the default judgment against it ought to be entirely set aside, not just as to damages. We note that Mason has not filed an appellee's brief. We need not develop an argument on an appellee's behalf in such a situation. Howard v. Daugherty, 915

N.E.2d 998, 999 (Ind. Ct. App. 2009). "Rather, we will reverse if the appellant's brief presents a case of prima facie error." Id. Prima facie error means "at first sight, on first appearance, or on the face of it." Id. We will affirm if an appellant does not meet this burden. Id.

Personal jurisdiction is the power of a court to bring a party into its adjudicative process and render a valid judgment as to that party. Laflamme v. Goodwin, 911 N.E.2d 660, 664 (Ind. Ct. App. 2009). "The existence of personal jurisdiction over a defendant is a constitutional requirement to rendering a valid judgment, mandated by the Due Process Clause of the Fourteenth Amendment." Anthem Ins. Cos. v. Tenet Healthcare Corp., 730 N.E.2d 1227, 1237 (Ind. 2000). If service of process is inadequate, a trial court does not acquire personal jurisdiction over a party, and any default judgment rendered without personal jurisdiction is void. Yoder v. Colonial Nat'l Mortg., 920 N.E.2d 798, 801 (Ind. Ct. App. 2010). We review de novo a trial court's determination that it had personal jurisdiction over a party. Laflamme, 911 N.E.2d at 664. The existence of a void judgment is a basis for relief from judgment, and it does not require the party seeking relief from judgment to establish a meritorious claim or defense. Ind. Trial Rule 60(B)(6).

There seems to be no doubt here that the purported service of process upon AERC was wholly inadequate and thus, the trial court lacked personal jurisdiction to enter a default judgment as to AERC. The complaint and summons were not mailed to any address for AERC, its subsidiaries, or to the registered agent of AERC's subsidiaries. Instead, the complaint and summons was mailed to an address at an apartment complex different from the

one in which Mason allegedly injured herself. AERC also has no connection to the Country Club apartment complex where the complaint and summons were mailed. The trial court stated in its motion to correct error order that "[n]o prejudicial or harmful error has been committed regarding the default." App. p. 7. Where personal jurisdiction is concerned, prejudice or harm is an irrelevant consideration. If personal jurisdiction is lacking, any resulting judgment is void, period. See Yoder, 920 N.E.2d at 801.

Mason seemed to suggest to the trial court that AERC was estopped from asserting insufficient service of process because of Walczak's erroneous mentioning of the Country Club apartment complex in some pre-litigation communications with Mason and her attorney, as opposed to the correct Waterstone complex. Even if the statements of Walczak, a third party, were attributable to AERC, there is no reason Mason or her attorney should have relied upon such statements as naming the proper party to this litigation. One of the key elements of equitable estoppel that must be proven is a lack of knowledge and of the means of knowledge as to the facts in question. Town of New Chicago v. City of Lake Station ex rel. Lake Station Sanitary Dist., 939 N.E.2d 638, 653 (Ind. Ct. App. 2010), trans. denied.

Here, Mason had direct personal knowledge that her accident occurred at the Waterstone apartment complex, not the Country Club apartment complex. Any mistaken references by Walczak to the Country Club complex should not have misled Mason or her attorney into failing to identify the proper party to this litigation and, consequently, obtaining service on that party.

Conclusion

Particularly given our prima facie error standard of review, we conclude the trial court erred in refusing to entirely set aside the default judgment against AERC because the judgment was void for lack of personal jurisdiction. We reverse and remand with instructions that the default judgment be vacated.

Reversed and remanded.

ROBB, C.J., and BRADFORD, J., concur.