

MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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IN THE COURT OF APPEALS OF INDIANA

Charanjeet Singh and Kamaljit
Kaur,

Appellants-Defendants,

v.

Stoneridge Properties, LLC,

Appellee-Plaintiff.

June 15, 2022

Court of Appeals Case No.
22A-CC-178

Appeal from the Marion Superior
Court

The Honorable Heather A. Welch,
Judge

Trial Court Cause No.:
49D01-2104-CC-11574

Baker, Senior Judge.

Statement of the Case

- [1] The trial court entered a default judgment against Charanjeet Singh and Kamaljit Kaur after they failed to respond to Stoneridge Properties, LLC's ("Stoneridge") complaint for breach of contract. Singh and Kaur separately filed motions to

vacate the default judgment, claiming that they had not received notice of the lawsuit and that Stoneridge was not entitled to prevail on the merits. The court denied their motions. Singh and Kaur then jointly filed a motion for reconsideration, which the court also denied. We affirm the trial court's denial of the motions to vacate default judgment and the motion for reconsideration.

Issue

- [2] Singh and Kaur raise three issues, which we restate as: whether the trial court abused its discretion in denying their motions.

Facts and Procedural History

- [3] Singh and Kaur are residents of California, and Stoneridge Properties, LLC, ("Stoneridge") is incorporated in Delaware and based in Indiana. In 2011, Singh, Kaur, and Stoneridge executed a lease, pursuant to which Singh and Kaur occupied space in a California shopping center owned by Stoneridge.

- [4] Among other provisions, the lease provides:

Any action, suit or proceeding related to, arising out of or in connection with the terms, conditions and covenants of this Lease may be brought by Landlord against Tenant in the Circuit or Superior Court of Marion County, Indiana. Tenant hereby waives any objection to jurisdiction or venue in any proceeding before said Court.

Appellants' App. Vol. II, p. 28.

- [5] The lease further provides that any notices relevant to the lease should be sent to Singh and Kaur at an address in Newark, California. In subsequent years, Singh,

Kaur, and Stoneridge executed several amendments to the lease, none of which materially altered the provisions that are pertinent to the issues in this appeal.

[6] On April 6, 2021, Stoneridge filed in the Marion Superior Court a complaint against Singh and Kaur for breach of contract, alleging that they had failed to pay rent and had abandoned the leased property. It requested an award of damages and attorney's fees. Stoneridge also filed summonses, to be issued to Singh and Kaur at the Newark, California address set forth in the lease, but the record does not contain any return for the summonses. Next, alias summonses were issued to Singh and Kaur at a Carmel, Indiana, address, and certified mail receipts indicate that an unidentified person at that address accepted the alias summonses.

[7] Singh and Kaur did not file an answer to the complaint within the deadline set by the Indiana Rules of Trial Procedure. On May 20, 2021, Stoneridge filed a motion for default judgment, claiming that the delivery of the complaint to Singh and Kaur via alias summonses to the Carmel, Indiana address was sufficient proof of service. On May 24, 2021, the trial court issued a default judgment in favor of Stoneridge. The court ordered Singh and Kaur to pay \$147,651.17 in damages, plus \$1,200.00 in attorney's fees.

[8] On October 7, 2021, Singh filed a motion to vacate the default judgment under Indiana Trial Rule 60. Kaur filed a separate but similar motion on October 8, 2021. Neither motion was verified, and neither Singh nor Kaur attached any evidence to their motions. They each argued that: (1) they had never received the complaint; (2) they had never lived in Indiana; and (3) Stoneridge was not entitled

to prevail on the merits of its claims. Stoneridge filed a response in opposition to the motions.

[9] On December 3, 2021, the trial court denied both motions to set aside the default judgment. The court noted that default judgments are disfavored under Indiana law but concluded that Singh and Kaur had failed to demonstrate excusable neglect or a meritorious defense to the merits of Stoneridge’s breach of contract claim.

[10] On December 14, 2021, Singh and Kaur filed a motion for reconsideration. Among other arguments, they claimed: (1) “newly discovered evidence” justified setting aside the default judgment, Appellants’ App. Vol., II, p. 98; and (2) the lease is governed by California law, and as a result they were not required to demonstrate a meritorious defense to have the default judgment vacated. The trial court denied the motion, and this appeal followed.

Discussion and Decision

[11] Singh and Kaur argue that the trial court should have set aside the default judgment because they did not receive a copy of Stoneridge’s complaint, and if they had been given an opportunity, they would have shown that they did not breach the contract. Stoneridge responds that the trial court did not err because Singh and Kaur did not present sufficient arguments or evidence in support of their motions to set aside the default judgment. We agree with Stoneridge.

[12] We initially note that Singh and Kaur represent themselves on appeal. Pro se litigants are held to the same standard as licensed lawyers. *Goossens v. Goossens*, 829

N.E.2d 36, 43 (Ind. Ct. App. 2005). An alleged error must be first specifically presented to the trial court; claims or arguments presented for the first time in an appellant's brief are not properly before the court on appeal. *Behme v. Behme*, 519 N.E.2d 578, 581 (Ind. Ct. App. 1988)

[13] Indiana Trial Rule 60(B) provides, in relevant part: “On motion and upon such terms as are just the court may relieve a party or his legal representative from a judgment, including a judgment by default, for the following reasons: . . . mistake, surprise, or excusable neglect; . . .” A person seeking relief under Trial Rule 60(B)(1) must “allege a meritorious claim or defense.” *Id.*

[14] A default judgment “is an extreme remedy and is available only where that party fails to defend or prosecute a suit. It is not a trap to be set by counsel to catch unsuspecting litigants.” *Smith v. Johnson*, 711 N.E.2d 1259, 1264 (Ind. 1999). Further, Indiana courts prefer to decide cases on their merits and to give the parties their day in court. *Allstate Ins. Co. v. Love*, 944 N.E.2d 47, 52 (Ind. Ct. App. 2011). As a result, default judgments are disfavored. *Allstate Ins. Co. v. Watson*, 747 N.E.2d 545, 547 (Ind. 2001). Any doubt in the propriety of a default judgment should be resolved in favor of the defaulted party. *Coslett v. Weddle Bros. Constr. Co., Inc.*, 798 N.E.2d 859, 861 (Ind. 2003).

[15] Even so, a movant seeking relief from a default judgment must bear the burden of showing sufficient grounds for relief under Trial Rule 60(B). *Kmart Corp. v. Englebright*, 719 N.E.2d 1249, 1253 (Ind. Ct. App. 1999), *trans. denied*. The trial court's decision whether to set aside a default judgment is given substantial

deference on appeal due to the fact-dependent nature of the trial court's inquiry. *Id.* We consider whether the trial court abused its discretion, which occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances before the court, or when the court has misinterpreted the law. *Id.* We similarly review the trial court's denial of Singh and Kaur's motion for reconsideration, which was in substance a motion to correct error under Indiana Trial Rule 59, for an abuse of discretion. See *City of Indianapolis v. Hicks*, 932 N.E.2d 227, 230 (Ind. Ct. App. 2010) ("In general, we review a trial court's ruling on a motion to correct error for an abuse of discretion."), *trans. denied*.

[16] There is no general rule as to what qualifies as excusable neglect under Trial Rule 60(B)(1). *Seleme v. JP Morgan Chase Bank*, 982 N.E.2d 299, 310 (Ind. Ct. App. 2012), *trans. denied*. Each case must be determined on its particular facts. *Id.* Under Indiana precedent, facts that could constitute excusable neglect may include "faulty process, whereby [a] party fails to receive actual notice;" *Kmart Corp.*, 719 N.E.2d at 1254 (quoting *Cont'l Assurance Co. v. Sickels*, 145 Ind. App. 671, 675, 252 N.E.2d 439, 441 (1969)).

[17] In their motions to set aside the default judgment, Singh and Kaur alleged that they had not received a copy of the complaint. They further alleged that they had never lived in Indiana. But they did not verify their statements under penalty of perjury, and they did not provide any evidence to support their claims of excusable neglect. Further, the record shows that Stoneridge filed summonses to be issued to an address in Newark, California. Singh and Kaur had agreed in the lease that they could receive notices related to the lease at that address. We cannot conclude that

the trial court acted against the logic and effect of the facts and circumstances before it by rejecting Singh and Kaur’s unsupported claims.

[18] With respect to establishing a meritorious claim or defense under Trial Rule 60(B), “the moving party need only state a factual basis for the purported meritorious claim or defense.” *Logansport/Cass Cnty. Airport Auth. v. Kochenower*, 169 N.E.3d 1143, 1148 (Ind. Ct. App. 2021). Mere conclusory statements will not suffice under the Rule, but neither must the movant prove an asserted meritorious claim or defense. *Id.*

[19] In their motions to vacate the default judgment, Singh and Kaur both stated only that “the plaintiff is not rightfully entitled to a judgment as described in the cause of action” Appellants’ App. Vol. II, pp. 75, 82. Kaur also submitted an answer to Stoneridge’s complaint, in which she generally denied Stoneridge’s allegations. These conclusory statements failed to establish meritorious defenses, and the trial court did not abuse its discretion by rejecting them.

[20] In their motion for reconsideration, Singh and Kaur claimed to have “newly discovered” evidence. *Id.* at 99. But newly discovered evidence must be shown not to have been previously discoverable by the exercise of due diligence. *See Stott v. Stott*, 737 N.E.2d 854, 857 (Ind. Ct. App. 2000) (stating elements of newly discovered evidence). The evidence Singh and Kaur provided was already in their possession when they filed their motions to vacate the default judgment, and they simply failed to provide it to the trial court at that time. Finally, in their motion for reconsideration, they claimed California law applied to the parties’ dispute, but

they did not cite any California authorities to support their claim that they were not obligated to prove a meritorious defense. The trial court did not abuse its discretion in denying their motion for reconsideration.

Conclusion

[21] For the reasons stated above, we affirm the judgment of the trial court.

[22] Affirmed.

Bradford, C.J., and Tavitas, J., concur.