

VERMONT SUPERIOR COURT

SUPERIOR COURT
Rutland Unit

CIVIL DIVISION
Docket No. 676-9-10 Rdsc
202-3-12 Rdcv

Rachel Dupuis
Plaintiff

v.

TC Healthcare, LLC
Defendant

ORIGINAL PAPER
VERMONT SUPERIOR COURT

JUN 20 2012

RUTLAND

DECISION ON APPEAL

The court heard oral argument on appeal on May 31, 2011. The appellant was represented by Leighton Aiken, Esq. The appellee was present, self-represented. The court has reviewed the files; considered the arguments and memoranda of the parties; and issues the following decision:

Procedural History

After a hearing on December 16, 2010, the Small Claims Court for the Rutland Unit of the Civil Division of the Superior Court issued a decision on February 28, 2011 in favor of plaintiff (hereinafter referred to as "Dupuis"). The defendant (hereinafter referred to as "TC Healthcare") filed an appeal to the Civil Division of the Rutland Unit. On August 3, 2011 the Civil Division issued a decision in favor of Dupuis on the appeal. On August 15, 2011 TC Healthcare filed a Request for Permission to Appeal to the Vermont Supreme Court. The Vermont Supreme Court denied that request on September 28, 2011 pursuant to V.R.S.C.P. 10(e) and V.R.A.P. 6(b). Thereafter, on February 8, 2012, TC Healthcare filed a Motion for Relief from Judgment under V.R.C.P. 60(b) with the Small Claims Court. The Small Claims Court issued a ruling denying that motion on March 1, 2012. TC Healthcare filed an appeal of that decision to this court on March 13, 2012.

Analysis

The lower court denied the motion for three reasons. First, the court ruled that such a motion (V.R.C.P. 60(b) motion) is not authorized by the Small Claims Court Rules. Second, the court ruled that since the issue raised in its motion had not been raised in the previous cases, the issue was lost as a defense. Finally, the court held that even if it were to consider the merits of the motion it would rule against TC Healthcare on the merits. This court upholds the lower court decision based on its holding that a Rule 60(b) motion is not authorized by the Small Claims Rules. Therefore, it is not necessary for the court to consider TC Healthcare's remaining arguments.

Small Claims Court procedure is designed to provide simple, informal, and inexpensive procedure for the determination of civil cases where the damages do not exceed \$5,000. 12 V.S.A. § 5531(a). As such, the motions allowed to be filed in Small Claims Court are very limited. According to V.R.S.C.P. 4:

~~The only motions permitted are (a) a motion for judgment by default, (b) a motion to reopen a default judgment, (c) a motion to extend the time for service of the summons and complaint by a sheriff or other person authorized to serve process, (d) a motion for continuance of trial which will be granted by the court only for good cause, (e) a motion to dismiss for lack of personal jurisdiction over the defendant, (f) a motion to dismiss for lack of subject matter jurisdiction, and (g) any motion necessary to request a procedure available under these rules. Any of these permitted motions must be filed in writing.~~

This limited nature of Small Claims Court procedure is further emphasized in V.R.S.C.P. 1(a), as follows:

Scope of Rules. These rules govern the procedure in the Civil Division of the Superior Court in all small claims actions brought under chapter 187 of Title 12, Vermont Statutes Annotated. These rules are the only procedural rules governing such actions except to the extent that other rules are expressly adopted by reference. These rules shall be construed to secure the simple, informal, and inexpensive disposition of every action subject to them.

The Rules of Small Claims Procedure do not allow for the filing of a Relief from Judgment or Order under V.R.C.P. 60(b). There are good reasons for this. Allowing such filings would make the proceedings more complicated, time consuming and expensive; in short, contrary to the intent of the Rules. This risk can clearly be seen in our case. The defendant's Rule 60(b) motion is seven pages long; its appellate brief is 18 pages long and contains ~182 pages of attachments.

This case has already involved one trial; an appeal to the Civil Division; and an attempted appeal to the Vermont Supreme Court. This does not represent the simple, informal, and inexpensive procedure envisioned by the Rules.

In its brief, TC Healthcare argues that its 60(b) motion is, in reality, a motion to dismiss for lack of subject matter jurisdiction and such motions are allowed by V.R.S.C.P. 4. It is true that a motion to dismiss for lack of subject matter jurisdiction is allowed by the Rule. TC Healthcare could have filed such a motion at any time during the proceedings in the first case, including on its first appeal. See *Town of Charlotte v. Richmond*, 158 Vt. 354, 357-58, (1992). However, after exhausting all its appeals, TC Healthcare now seeks to raise this issue through a 60(b) motion, which is, simply, not allowed under the Rules. Nor is this 60(b) motion a "motion necessary to request a procedure available under these rules." V.R.S.C.P. 4 (emphasis added). According to the *Reporter's Notes* following Rule 4, the purpose of the foregoing quoted language is to "permit[] housekeeping motions requesting or applying for change of place of trial under Rule 2(a), jury trial under Rule 5(b), telephonic participation or testimony under Rule 6(a), and relief from filing fees and other court costs under Rule 11." In addition, a 60(b) motion is not a necessary motion to allow the defendant to challenge subject matter jurisdiction of the court, inasmuch as such a motion could have been raised at anytime during the first proceeding.

TC Healthcare also argues that a Rule 60(b) motion may be filed in Small Claims Court by virtue of V.R.S.C.P. 13. However, this Rule is inapposite. That Rule states, "When matters arise that are not covered by these rules, the court will proceed by analogy to any applicable provision of the Vermont Rules of Civil Procedure that is consistent with these rules and with the objective of securing a simple, informal, and inexpensive disposition of the claim." The filing of a Rule 60(b) motion is not something that is not covered by these rules. Since the filing of such a motion is not allowed by Rule 4, it is expressly the type of motion that is not allowed by these rules. The *Reporter's Notes* following Rule 13 support this outcome:

Rule 13 is intended to provide a means for handling the infrequent procedural problems that may arise in the course of a small claims action--for example, substitution of an estate for a party who dies during the pendency of an action. Cf. V.R.C.P. 81(d). Under V.R.C.P. 80.3(a), many of the Civil Rules were expressly excluded, and the "remaining Civil Rules" were incorporated by reference, thereby jeopardizing the intended simplicity of small claims proceedings. By virtue of Rule 1, none of the Civil Rules applies unless expressly incorporated.

Rule 13 permits their use by analogy, provided that the objective of keeping small claims proceedings “simple, informal, and inexpensive” is maintained.

Even if a 60(b) motion were allowed in this case, applying it here would be, as otherwise held in this decision, contrary to the objective of securing a simple, informal, and inexpensive disposition of the claim. The court concludes that Rule 13 does not allow for the filing of a 60(b) motion in our case.

Additionally, TC Healthcare argues that the Vermont Supreme Court sanctioned the use of Rule 60(b) motions in Small Claims Court in *Knight v. LaClaire's Auto Body*, 145 Vt. 637 (1985). However, even if that case did provide support for TC Healthcare's argument at one time, it is clear that its precedential value has been drastically narrowed. This case was decided before the Small Claims Rules were re-written in 2002. At the time of the *Knight* decision, the Small Claims Court would have been governed by V.R.C.P. 80.3, which allowed the filing of a 60(b) motion. However, Rule 80.3 was abrogated effective September 1, 2002, pursuant to Supreme Court order dated March 6, 2002, based on the passage of the Rules of Small Claims Procedure. See *Reporter's Notes* following V.R.C.P. 80.3. Therefore, the *Knight* case has no precedential value in connection with this matter.

The court also notes that the inability to file a 60(b) motion in a small claims case does not mean that that a party has no ability to correct an “incorrect decision,” as the losing party has the right to file an appeal. The Vermont Supreme Court has also held that “a motion for relief [under Rule 60(b)] is not intended to function as a substitute for a timely appeal.” *Richwagen v. Richwagen*, 153 Vt. 1, 3 (1989) (formatting in original).

In conclusion, this court must interpret the Small Claims Rules in a manner “construed to secure the simple, informal, and inexpensive disposition of every action subject to them.” V.R.S.C.P. 1(a). Allowing the filing of 60(b) motions, when it is not expressly authorized by V.R.S.C.P. 4, would open the door to a myriad of unanticipated new challenges to a Small Claims judgment, which would have the opposite effect of securing a “simple, informal, and inexpensive disposition of every action.” This is particularly so in our case.

At oral argument, TC Healthcare made an emphatic policy argument that allowing this Small Claims judgment to stand would set a negative precedent which would have a chilling effect on the purchase of future nursing homes by companies such as TC Healthcare. However, this court does not see how the Small Claims Court decision in this case would have any

precedential value. In reality, it would not even have any precedential value in trial courts in the State of Vermont since it is a lower court decision. In addition, the case is so "fact-specific" that it is unlikely to have any persuasive value in other cases as well.

Order

The decision of the Small Claims Court is *affirmed*.

SO ORDERED at Rutland this 28th day of June, 2012.



Cortland Corsones
Superior Court Judge