

No. 1-11-2128

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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COMMUNITY AMERICA CREDIT UNION,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 09 CH 49483
	)	
GREGORY BEA and MARGARET BEA,	)	Honorable
	)	Laura C. Liu,
Defendants-Appellants.	)	Judge Presiding.

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JUSTICE HOWSE delivered the judgment of the court.  
Presiding Justice McBride and Justice Palmer concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* Order of circuit court of Cook County denying defendants' motion to quash service in mortgage foreclosure action affirmed.
- ¶ 2 Plaintiff Community America Credit Union filed a mortgage foreclosure action against defendants Gregory and Margaret Bea. Defendants filed a *pro se* general answer and numerous other pleadings before filing the "motion for leave to withdraw the amended answer and counter claim alternatively dismiss the foreclosure for lack of jurisdiction as void," which is at issue here. The circuit court denied the motion, and defendants, *pro se*, now contest the propriety of that

ruling.

¶ 3 The common law record filed in this case shows that on September 26, 2005, plaintiff and defendants entered into a mortgage loan agreement for \$148,000. Defendants executed a note promising to repay the principal of the loan and interest thereon, and the note was secured by a mortgage on the property at 15739 Clifton Park Avenue in Markham, Illinois. On December 10, 2009, plaintiff filed a mortgage foreclosure complaint against defendants alleging that they had defaulted on their mortgage payments for the property in question, and requested a judgment to foreclose the mortgage and a judicial sale.

¶ 4 On January 12, 2010, defendant Gregory Bea filed a *pro se* general appearance and jury demand. On that same date, Gregory and Margaret Bea filed a joint *pro se* verified answer to plaintiff's complaint requesting the court to deny the relief requested by plaintiff.

¶ 5 On January 15, 2010, plaintiff filed an affidavit for service by publication indicating that defendants could not be found on diligent inquiry. A special process server was appointed, who had served Margaret Bea on January 5, 2010, but was unable to serve Gregory Bea. On February 3, 2010, notice of the foreclosure action was published in the Chicago Daily Law Bulletin.

¶ 6 On April 12, 2010, plaintiff filed a motion for entry of judgment of foreclosure and sale. Thereafter, defendants filed, *pro se*, numerous pleadings, including an amended answer to the complaint and petition for counterclaim to cancel the note and claim in recoupment, money damages and to quiet title against plaintiff, and a motion to strike plaintiff's "motion for entry of an order of default and judgment of foreclosure and sale; and hereby challenge[] subject matter jurisdiction."

¶ 7 On May 5, 2010, plaintiff filed another motion for entry of judgment of foreclosure and sale, as well as motions for appointment of a selling officer. Plaintiff also filed a motion for summary judgment against defendants alleging that there was no genuine issue of material fact

with respect to defendants' default under the terms of the note and mortgage.

¶ 8 On July 8, 2010, plaintiff filed a motion to strike defendants' various pleadings pursuant to section 2-615 of the Code of Civil Procedure (Code) (735 ILCS 5/2-615 (West 2010)), and for sanctions pursuant to Supreme Court Rule 137 (eff. Feb. 1, 1994). Plaintiff alleged that defendants' pleadings and discovery requests can best be characterized as debt elimination schemes.

¶ 9 The court denied plaintiff's motion for sanctions, and ordered plaintiff to answer defendants' discovery requests. On November 2, 2010, defendants filed an objection and motion to strike plaintiff's motion for an order of default and judgment of foreclosure and sale, maintaining that plaintiff had no evidence that a valid contract existed.

¶ 10 On December 8, 2010, defendants filed an amended answer and counterclaim in which they essentially denied the allegations raised by plaintiff in its complaint, and requested judgment of \$358,710 against plaintiff. Defendants also filed affirmative defenses alleging that plaintiff was fraudulently trying to "re-affirm an allege debt," and other numerous and incoherent arguments. Defendants maintained that they were entitled to either a release and satisfaction of the note and mortgage or a dismissal of the foreclosure complaint with prejudice for fraud on the court.

¶ 11 On January 11, 2011, plaintiff filed a section 2-619.1 (735 ILCS 5/2-619.1 (West 2010)) motion to strike and dismiss defendants' amended answer to the complaint and petition for counterclaim. Plaintiff alleged that defendants' amended answer contained a variety of confusing arguments, and that it was difficult to determine what defendants were attempting to allege.

¶ 12 Defendants subsequently filed a reply to this motion, and on January 21, 2011, defendants filed affirmative defenses which essentially repeated the allegations raised in their prior pleadings. On January 25, 2011, defendants filed a petition to dismiss on grounds of fraud and

extortion. The court subsequently entered a written order noting that it was "unclear what [defendants were] attempt[ing] to accomplish by filing" this petition, and that it would not consider this consolidated motion which appeared to request dismissal and alleged certain counterclaims. The court then struck defendants' petition to dismiss and noted that any filing that does not comport with the relevant statutes and rules will be stricken, and that no party is to file any motion without prior leave of court. The court then set the matter for March 10, 2011, on plaintiff's motion to dismiss, and to set plaintiff's motion to dismiss defendants' affirmative defenses and amended counterclaims for briefing.

¶ 13 On April 13, 2011, defendants filed a motion for leave to withdraw the amended answer and counterclaim and alternatively dismiss the foreclosure action for lack of jurisdiction as void. Defendants maintained that the special process server that allegedly served them was not appointed by the court, and therefore, the service by that person was void.

¶ 14 On June 6, 2011, the circuit court entered an order granting plaintiff's motion to dismiss defendants' affirmative defenses and amended claims, and denying defendants' motion to withdraw the amended answer and counterclaim and alternatively dismiss the foreclosure action for lack of jurisdiction with prejudice. In doing so, the court noted that defendants' argument was untimely, that by filing an answer, affirmative defenses and counterclaims, they had waived any jurisdictional objections.

¶ 15 On July 1, 2011, defendants filed a motion to reconsider the denial of their motion for leave to withdraw the amended answer and counterclaim. The court denied this motion in a written order on July 20, 2011, finding that defendants filed an answer on January 12, 2010, thereby waiving any challenge to jurisdiction. The court further found that there was no just reason to delay enforcement or the appeal of this order pursuant to Supreme Court Rule 304(a) (eff. Feb. 26, 2010).

¶ 16 In this appeal from that order, defendants maintain that the court erred in denying their motion to quash service and vacate all orders based on a lack of personal jurisdiction. They claim that the special process server was not appointed by the trial court when he attempted service, there was no showing of due diligence or inquiry to find Gregory Bea, and that the subsequent service by publication was improper. Plaintiff responds that the trial court properly found that defendants' objection to jurisdiction was waived when they filed multiple answers and counterclaims.

¶ 17 We initially observe that a court acquires personal jurisdiction over a party only by the coercive power of a summons or the consensual authority of a voluntary appearance. *GMB Financial Group, Inc. v. Marzano*, 385 Ill. App. 3d 978, 984 (2008). For what constitutes a "voluntary appearance" by which a party concedes the court's jurisdiction over him, we look to section 2-301 of the Code of Civil Procedure (Code), entitled, "Objections to jurisdiction over the person." *GMB Financial Group, Inc.*, 385 Ill. App. 3d at 984-85. That section provides, in relevant part, that:

"(a) Prior to the filing of any other pleading or motion other than a motion for an extension of time to answer or otherwise appear, a party may object to the court's jurisdiction over the party's person, either on the ground that the party is not amenable to process of a court of this State or on the ground of insufficiency of process or insufficiency of service of process, by filing a motion to dismiss the entire proceeding or any cause of action involved in the proceeding or by filing a motion to quash service of process. \*\*\*  
(a-5) If the objecting party files a responsive pleading or a motion (other than a motion for an extension of time to answer or

otherwise appear) prior to the filing of a motion in compliance with subsection (a), that party waives all objections to the court's jurisdiction over the party's person." 735 ILCS 5/2-301 (West 2010).

¶ 18 Here, the record shows that Margaret Bea was personally served on January 5, 2010, and seven days later, Gregory Bea filed a *pro se* general appearance and jury demand. He and Margaret also filed a joint *pro se* verified answer on the same date. By filing a responsive pleading or motion prior to filing a motion in compliance with subsection (a) of section 2-301 of the Code, defendants waived all objections regarding the circuit court's lack of personal jurisdiction (*Higgins v. Richards*, 401 Ill. App. 3d 1120, 1126 (2010)) even if there were deficiencies (*Johnson v. Ingalls Memorial Hospital*, 402 Ill. App. 3d 830, 842 (2010)).

¶ 19 The record further shows that defendants did not file a motion contesting personal jurisdiction until April 2011. By that time, both defendants had been served, and, in any event, defendants had clearly demonstrated their voluntary submission to the court's jurisdiction by participating in the proceedings, and thus forfeited any objection to the court's personal jurisdiction over them. *Deutsche Bank Nat. Trust Co. v. Hall-Pilate*, 2011 IL App (1st) 102632, ¶18; *GBM Financial Group, Inc.*, 335 Ill. Ap. 3d at 984-86. We, therefore, find no error in the trial court's denial of defendants' motion to dismiss the foreclosure action for lack of personal jurisdiction.

¶ 20 We further observe that *pro se* litigants are presumed to have full knowledge of applicable court rules and procedures and must comply with the same rules and procedures as would be required of litigants represented by counsel. *In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1067 (2009). The fact that defendants were not represented by counsel when they appeared before the court and filed responsive pleadings does not affect their waiver of any

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objection to personal jurisdiction. *In re Estate of Pellico*, 394 Ill. App. 3d at 1067.

¶ 21 Accordingly, we affirm the order of the circuit court of Cook County.

¶ 22 Affirmed.