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DISTRICT III

December 28, 2023

To:

Hon. Scott M. Corbett
Circuit Court Judge
Electronic Notice

Andrew W. Schmidt
Electronic Notice

Kelly Schremp
Clerk of Circuit Court
Marathon County Courthouse
Electronic Notice

Lori A. Gintner
106 Maple Street
Mosinee, WI 54455

You are hereby notified that the Court has entered the following opinion and order:

2023AP331

Rodney Oleson v. Lori A. Gintner (L. C. No. 2018CV582)

Before Stark, P.J., Hruz and Gill, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Rodney Oleson appeals from a judgment denying his claims for damages associated with enforcing specific performance of a land contract. The respondent, Lori Gintner, has not filed a response brief. Based upon our review of the appellant's brief and the record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).¹ We reverse the judgment and remand for further proceedings on Oleson's claims for damages.

¹ All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

Oleson filed suit against Gintner in September 2018, seeking both transfer of title to a property that Oleson alleged he had bought from Gintner on a land contract and damages stemming from Gintner's alleged failure to make mortgage payments on the property and her removal of funds from a home equity line of credit. Following a bifurcated trial on the issue of title, the circuit court determined that the land contract was enforceable and that Oleson had made nearly all of the required payments under the contract, taking into account mortgage payments Oleson had made on Gintner's behalf. The court ordered Gintner to transfer title to the property upon Oleson's payment of an outstanding amount for property taxes. The court further ordered that "[i]f either party wishes to pursue a claim for damages, interest, penalties or attorney[']s fees against the other, they shall plead those claims specifically within 60 days of the transfer of title."

On November 11, 2022, after Oleson paid the amount outstanding on the land contract, but Gintner failed to transfer the title, the circuit court issued a second order transferring the title to Oleson. The order specified that "[t]itle transfer is effective upon recording of this judicial instrument transferring title to the above real estate with the Marathon County Register of Deeds."

Oleson recorded the judicial instrument transferring title with the Marathon County Register of Deeds the next business day, Monday, November 14, 2022. On January 13, 2023, Oleson filed a claim for damages, including seeking compensation for time lost from work, higher interest rates caused by delay in obtaining a home equity loan until his title was cleared, and legal expenses. Later that same day, the circuit court issued a final judgment, stating that the litigation was complete because neither party had submitted a claim for damages within sixty days of the completion of the transfer of title.

Oleson moved for reconsideration, providing the circuit court with a certified copy of the instrument showing that it had been recorded on November 14, 2022, and pointing out that his claim for damages had been filed on the sixtieth day after the transfer of title was effectuated. The court denied the reconsideration motion, stating the transfer of title occurred on November 11, 2022, when the court issued its order transferring title, and expired on January 10, 2023.

On appeal, Oleson contends that the circuit court erroneously exercised its discretion by denying his motion for reconsideration because the dismissal of his damages claims was based upon a miscalculation of the sixty-day time period by which the court had directed the parties to file their claims. We agree.

In order to prevail on a motion for reconsideration, the movant must present newly discovered evidence or establish a manifest error of law or fact. *Koepsell's Olde Popcorn Wagons, Inc. v. Koepsell's Festival Popcorn Wagons, Ltd.*, 2004 WI App 129, ¶44, 275 Wis. 2d 397, 685 N.W.2d 853. A manifest error refers to a “self-evident” mistake due to “oversight, omission, or miscalculation,” which tends to “immediately reveal itself as such to reasonable legal minds.” *Schinner v. Schinner*, 143 Wis. 2d 81, 92-93, 420 N.W.2d 381 (Ct. App. 1998). We review a circuit court’s decision on reconsideration under the erroneous exercise of discretion standard, considering whether the court examined the relevant facts, applied a proper standard of law, and used a demonstrated rational process to reach a reasonable conclusion. *Lakeland Area Prop. Owners Ass’n, U.A. v. Oneida County*, 2021 WI App 19, ¶14, 396 Wis. 2d 622, 957 N.W.2d 605.

Here, the circuit court set a deadline that was, according to the language of its own orders, to be calculated based upon the recording of the instrument transferring title with the Marathon County Register of Deeds. Because the instrument was recorded on November 14, 2022, the sixty-day deadline expired on January 13, 2023. The court's finding that the deadline expired on January 10, 2023, was a manifest error based upon a miscalculation. It follows that the court erroneously exercised its discretion when it denied Oleson's motion for reconsideration, as he timely filed his damages claims on January 13, 2023. We therefore reverse the judgment dismissing Oleson's damages claims and remand for further proceedings.

IT IS ORDERED that the judgment is summarily reversed and the cause is remanded for further proceedings. WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals