

ORIGINAL

FILED

08/22/2023

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 22-0720

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 22-0720

FILED

AUG 22 2023

Bowen Greenwood
Clerk of Supreme Court
State of Montana

GUARDIAN TAX MT, LLC,

Plaintiff and Appellee,

v.

ORDER

JEANNETTE TASEY,

Defendant and Appellant.

Appellee Guardian Tax filed an action to quiet title on the Subject Property and served the Appellant, Jeannette Tasey, on January 18, 2022. Tasey failed to timely answer and a default judgment was entered.

On July 13, 2022, Tasey filed a Motion to Set Aside Default and Default Judgment. Following the motion, the parties agreed to request that the District Court extend the deadline for Guardian Tax to file a response and for the District Court to rule on the Motion to Set Aside Default and Default Judgment. The District Court granted the request and set November 12, 2022, as the deadline for it to enter an order on Tasey's motion. On November 10, 2022, two days before the deadline, the District Court entered an Order on its own motion to extend its time to rule on the Motion to Set Aside Default and Default Judgment for an additional 60 days. On December 13, 2022, Tasey filed an appeal, believing that the Motion to Set Aside Default and Default Judgment was deemed denied by operation of law on November 12, 2022, and that the District Court did not have the authority to extend the deadline a second time.

Montana Rules of Civil Procedure (59)(f) requires the District Court to address a motion within 60 days of its filing date or the motion will be deemed denied.¹ Rule 59(f) also states that “[i]f the court issues an order within the 60 days extending the time within which to rule on the motion, the time for ruling may be extended.” Rule 59(f) does not limit how frequently the District Court may extend the deadline. Section 1-2-101, MCA (When the court engages in statutory interpretation it must “simply [] ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted or to omit what has been inserted.”). The District Court had the authority to extend the deadline for a second time. Tasey’s appeal therefore was premature since, at the time her appeal was filed, her motion had not been ruled upon.

We have determined that it is appropriate to dismiss this appeal without prejudice and remand it to the District Court to allow it to rule on Tasey’s Motion to Set Aside Default and Default Judgment.

IT IS THEREFORE ORDERED that this appeal is DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that this appeal is remanded to the District Court to rule on Tasey’s Motion to Set Aside Default and Default Judgment.

The Clerk is directed to provide copies of this Order to all counsel of record, to the clerk of Court for Yellowstone County, and to the Honorable Ashley Harada, presiding Judge.

Dated this 22nd day of August, 2023.



Chief Justice

¹ Motions made pursuant to M. R. Civ. P. 60(c)(1) must be determined within the times provided by M. R. Civ. P. 59.

James F. H. [unclear]

Lawrence [unclear]

John M. Sullivan

John Rice

Justices