

STATE OF MICHIGAN
COURT OF APPEALS

GRANT CARLSON

Plaintiff-Appellee,

v

WOODWORKERS SUPPLY OF NEW MEXICO,

Defendant-Appellee,

and

CHANG TJER INDUSTRIAL COMPANY, LTD,

Defendant-Appellant.

UNPUBLISHED

September 24, 1996

No. 184763

LC No. 92-001785

Before: Doctoroff, C.J., and Hood and Bandstra, JJ.

PER CURIAM.

Defendant, Chang Tjer Industrial Company, Ltd., appeals as of right the trial court's denial of its motion to set aside a default judgment against it in a products liability action. Defendant alleged that the default and judgment were void because the trial court did not have personal jurisdiction over defendant, a Taiwanese corporation. The trial court ruled that the defense of lack of personal jurisdiction had been waived. We affirm.

Defendant argues that it did not waive its right to raise the issue of lack of personal jurisdiction. We disagree. After defendant had been served with the complaint, the trial court received a document from defendant that stated "WE, CHANG TJER INDUSTRIAL CO., LTD., DEFEND AS FOLLOWS:" A defense was then set forth based on plaintiff's alleged failure to properly operate the machine, which was manufactured by defendant. However, in that document, defendant failed to raise the issue of personal jurisdiction. The document concluded: "WE PLEAD TO YOUR HONORABLE COURT TO REJECT THE CHARGE."

The disposition of this issue depends on the interpretation of this document. The trial court considered this to be a responsive pleading, and, because the pleading did not challenge the trial court's jurisdiction over defendant, the trial court deemed the defense of lack of personal jurisdiction to have been waived. Defendant claims this document was not a pleading. We disagree.

The trial court's lack of personal jurisdiction must be raised in a party's first motion for summary disposition or in the party's responsive pleading, whichever is filed first. MCR 2.116(D); *Dundee v Puerto Rico Marine*, 147 Mich App 254, 257; 383 NW2d 176 (1985). The term "pleading" includes only a complaint, a counter-claim, a third-party complaint, an answer to one of the above, or a reply to an answer. MCR 2.110(A). Decisions concerning the meaning and scope of pleadings fall within the sound discretion of the trial court, and establishing an abuse of that discretion is difficult. *Dacon v Transue*, 441 Mich 315, 328-329; 490 NW2d 369 (1992).

In this case, the document was received in quick response to service of process made through the appropriate diplomatic channels. From the language of the document, it is clear that defendant asked the court to adjudicate the matter on the basis of the defense contained therein, and thereby submitted to the jurisdiction of the court. The document was sent in response to plaintiff's lawsuit and served the purpose of a responsive pleading. Although the document did not comport to the form requirements of the court rules, such a defect was not fatal. MCR 2.115. Based on these facts, it was not an abuse of discretion for the trial court to consider this document to be a responsive pleading. Because defendant did not challenge the trial court's lack of personal jurisdiction in that responsive pleading, the defense is waived. MCR 2.116(D).

Because of our conclusion on this issue, we need not decide appellant's other claims.

Affirmed.

/s/ Martin M. Doctoroff
/s/ Harold Hood
/s/ Richard A. Bandstra