FILED
MAY 22 1984
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

LUND & CHAMBERS,)
Plaintiff-Appellee,) Filed May 22, 1984
vs)
OLLIE HABHAB,) 4-81
Defendant-Appellant.) 2-69110

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Appeal from the Iowa District Court for Webster County - R. K. Richardson and Russell J. Hill, Judges.

Defendant-counterclaimant appeals from the trial court's denial of his application to reinstate this lawsuit which was dismissed under Iowa R. Civ. P. 215.1 AFFIRMED.

Ollie Habhab, defendant-appellant, pro se.

Don N. Kersten and Stephen G. Kersten of Kersten, Opheim, Carlson & Trevino, Fort Dodge, for plaintiff-appellee.

Considered by Donielson, P.J., and Snell and Sackett, JJ.

Defendant-counterclaimant appeals from the trial court's denial of his application to reinstate this lawsuit which was dismissed under Iowa R. Civ. P. 215.1. He claims the court abused its discretion in refusing to reinstate the suit. We affirm.

Plaintiff law firm had commenced a small claims action against defendant in June of 1979 to recover $540.89 in attorney fees for prior work done for defendant. On August 14, 1979, defendant filed a counterclaim alleging plaintiff's breach of employment contract regarding legal services performed and claimed damages in the amount of $103,000. The case was thereafter transferred to district court. On August 14, 1981, the parties were given notice by the clerk of court that the case would be dismissed under Iowa R. Civ. P. 215.1 unless tried before January 1, 1982.

On June 30, 1982, defendant-counterclaimant, who has represented himself pro se throughout this case, filed his application for reinstatement of the action, asserting that prior to the dismissal he had been unaware of rule 215.1 and that he would have conducted himself differently had he known of the rule. He also claims that he did not receive the 1981 notice of dismissal. After a hearing on defendant's application, the court on August 16, 1982, issued an order denying defendant's application. After his motion to reconsider was overruled, defendant brought this appeal.

Reinstatement of actions dismissed under rule 215.1 is provided for in the same rule: "The trial court may, in its discretion, and shall upon a showing that such dismissal was the result of oversight, mistake or other reasonable cause, reinstate the action or actions so dismissed." The court has considerable discretion in reinstating dismissed cases, but reinstatement is mandatory upon a showing of oversight, mistake, or other reasonable cause. Werkmeister v. Kroneberger, 262 N.W.2d 295, 296 (Iowa 1978).

We find no reason to disturb the court's order. First, we do not believe that defendant presented any "reasonable cause" to justify mandatory reinstatement. His main argument in this regard is that he never received the 1981 notice of dismissal. We conclude that defendant received proper notice under rule 215.1. That rule requires the clerk of court to give notice "as provided in R.C.P. 82." Rule 82 requires that service upon a party "shall be made by delivering a copy to him or by mailing it to him at his last known address . . . . Service by mail is complete upon mailing." Iowa R. Civ. P. 82(b) (emphasis added). Proof of service "may be by written acknowledgment of service, by certification of the person who served the papers, or by any other proof satisfactory to the court." Iowa R. Civ. P. 82(g) (emphasis added). The record in this case is clear that the 1981 notice of dismissal was sent to defendant's known address. The notice also contains an affidavit of service certifying that the clerk of court in fact mailed the notice to the various parties, including defendant. Under these circumstances, defendant's claim that notice was not properly served is without merit.

Nor do we believe that defendant's professed ignorance of Rule 215.1 and its requirements provides the "reasonable cause" necessary to justify reinstatement of this action. Ignorance of the law is not a defense in itself, for example, in a contempt proceeding. Carr v. District Court of Van Buren County, 147 Iowa 663, 674, 126 N.W. 791, 795 (1910). While we recognize that defendant has proceeded pro se throughout this action and thus was not informed by an attorney of the Rule 215.1 requirements, we believe the policy behind that rule (i.e., the diligent prosecution of civil actions) supersedes these considerations in this case. See also Gruener v. City of Cedar Falls, 189 N.W.2d 577, 580 (Iowa 1971) (generally, ignorance of a cause of action does not prevent or postpone the running of the statute of limitations).

Having found no grounds to support mandatory reinstatement of this action, we also conclude that the court did not abuse its discretion in refusing to reinstate

it. Defendant did nothing further to prosecute his counterclaim from September of 1979, when it was transferred from small claims to district court, to June 30, 1982, the last day in which he could apply for reinstatement of the dismissed action. Although defendant claimed health problems during that time, the record discloses that he was hospitalized for less than two months during that 34-month span. The court could justifiably conclude that this case should not be reinstated We therefore affirm.

AFFIRMED.