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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

In re Marriage of MARIANO S. and
MARGIE C. MACIAS.

B263308

(Los Angeles County
Super. Ct. No. BD403383)

MARIANO S. MACIAS,

Respondent,

v.

MARGIE C. MACIAS,

Appellant.

APPEAL from a judgment of the Superior Court, County of Los Angeles, Colin P. Leis, Judge. Affirmed.

Law Offices of Anju Multani, Anju Multani for Appellant.

Bunagan, Marapao & Associates, Abe A. D. Marapao for Respondent.

On December 19, 2004, Mariano Macias obtained a default judgment dissolving his marriage to Margie Macias in Los Angeles County Superior Court case No. BD403383. He remarried three days later and now has a 12-year-old daughter in this marriage. In 2015, Margie petitioned to vacate the default judgment, contending Mariano obtained it fraudulently when he deliberately served inadequate notice of the dissolution proceedings. Mariano opposed the petition to vacate, arguing it was time-barred because Margie knew about the purported fraud more than a year prior to filing it. Mariano showed Margie had filed a petition in 2013 in separate litigation in which she stated, “[O]n December 19, 2004, [Mariano] obtained a judgment of divorce from petitioner . . . in Case No. BD403383.”¹ The trial court found Margie knew of the purported fraud more than a year before she petitioned to vacate the default judgment, and therefore denied her petition on the ground it was untimely. Margie appealed.

At issue is whether Margie’s petition to vacate the default judgment was time-barred. Under Family Code section 2122, a motion to vacate a fraudulently obtained default judgment must be filed within one year from the date the aggrieved party discovered or should have discovered the fraud. (Fam. Code, § 2122, subd. (a).) The limitations period begins to run when the aggrieved party knows of facts constituting the fraud. (See Code Civ. Proc., § 338, subd. (d); *Rubenstein v. Rubenstein* (2000) 81 Cal.App.4th 1131, 1149.) We review an order denying a petition to vacate a judgment for abuse of discretion. (*Gamet v. Blanchard* (2001) 91 Cal.App.4th 1276, 1283.)

In 2013, Margie filed a petition that stated, “[O]n December 19, 2004, [Mariano] obtained a judgment of divorce from petitioner . . . in Case No. BD403383.” This petition showed she knew by at least 2013 that Mariano had obtained a default judgment dissolving their marriage in 2004. If, as she claims, Mariano obtained that judgment by fraudulently concealing the proceedings from her, she knew or should have known of this concealment by 2013 at the latest. Under Family Code section 2122, she then had one

¹ The 2013 petition was filed in a court in the Republic of the Philippines, where Margie and Mariano have been actively litigating several matters since 2001.

year to move to vacate the default judgment. Because she waited over a year to do so, her petition was time-barred.

DISPOSITION

We affirm the trial court's order. Respondent is to recover his costs on appeal.

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CHANEY, Acting P. J.

WE CONCUR:

JOHNSON, J.

LUI, J.