Filed 5/29/18 Jones v. Masongrove Homeowners Assn. CA2/8

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**



IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

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| LASHANDA JONES,<br><br>Plaintiff and Appellant,<br><br>v.<br><br>MASONGROVE HOMEOWNERS ASSOCIATION,<br><br>Defendant and Respondent. | B276099<br><br>(Los Angeles County Super. Ct. No. PC055513) |

APPEAL from the judgment of the Superior Court of Los Angeles County. Melvin Sandvig, Judge. Affirmed.

LaShanda Jones, in pro. per., for Plaintiff and Appellant.

Veatch Carlson and Cyril Czajkowskyj for Defendant and Respondent.

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Plaintiff and appellant LaShanda Jones appeals from the judgment of dismissal entered in favor of defendant and respondent Masongrove Homeowners Association. The judgment of dismissal was entered after the court sustained without leave to amend defendant's demurrer to plaintiff's third amended complaint.

Plaintiff's opening brief fails to comply with California Rules of Court, rule 8.204. Plaintiff fails to provide any summary of the material facts, fails to make any citations to the record, and presents a one-sentence "argument" as follows: "Plaintiff has not been afforded the opportunity to amend this Third Amended Complaint." Plaintiff has failed to affirmatively show error in the trial court. As we explain, the dismissal is therefore properly affirmed.

We begin with the well-established foundational premise that " '[a] judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and *error must be affirmatively shown*. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.' [Citations.]" (*Denham v. Superior Court of Los Angeles County* (1970) 2 Cal.3d 557, 564, second italics added; accord, *Ballard v. Uribe* (1986) 41 Cal.3d 564, 574 ["a party challenging a judgment has the burden of showing reversible error by an adequate record"].) And, unless otherwise shown, "it is presumed that the court followed the law." (*Wilson v. Sunshine Meat & Liquor Co.* (1983) 34 Cal.3d 554, 563.)

The appellate record consists of four volumes of a clerk's transcript. As noted above, plaintiff does not cite even once to that record in support of her claim the trial court abused its

discretion in denying further leave to amend and dismissing her action. "The reviewing court is not required to make an independent, unassisted study of the record in search of error or grounds to support the judgment." (13 Witkin, Cal. Procedure (2018) Appeal, § 701, p. 769.) Any statement or argument unsupported by any citation to the record may be properly disregarded. (See, e.g., *Roman v. BRE Properties, Inc.* (2015) 237 Cal.App.4th 1040, 1053; accord, *Ojavan Investors, Inc. v. California Coastal Commission* (1997) 54 Cal.App.4th 373, 391 [argument not supported with specific citations to the record may be deemed waived]; see also *Duarte v. Chino Community Hospital* (1999) 72 Cal.App.4th 849, 856; see also *McComber v. Wells* (1999) 72 Cal.App.4th 512, 522.)

Plaintiff has not offered any support for her claim that the trial court abused its discretion in denying her the opportunity to file a fourth amended complaint. Plaintiff does not assert error or make any argument that the trial court wrongly sustained defendant's demurrer to the third amended complaint. She *only* contends she should have been granted yet another attempt to amend.

But, plaintiff does not state any additional facts she can allege in an amended complaint. "A party may propose amendments on appeal where a demurrer has been sustained, in order to show that the trial court abused its discretion in denying leave to amend. [Citation.] However, the vague claim that 'concerns' could be 'address[ed]' by an amendment or there may be a type of relief 'that will not conflict with the [ground relied upon by court in sustaining the demurrer]' does not satisfy an appellant's duty to spell out in [her] brief the specific proposed

amendments on appeal." (*People ex rel. Brown v. Powerex Corp*. (2007) 153 Cal.App.4th 93, 112.)

Indeed, "there is nothing in the general rule of liberal allowance of pleading amendment which 'requires an appellate court to hold that the trial judge has abused his discretion if on appeal the plaintiffs can suggest no legal theory or state of facts which they wish to add by way of amendment.' [Citation.]" (*Careau & Co. v. Security Pacific Business Credit, Inc.* (1990) 222 Cal.App.3d 1371, 1387-1388.) The burden falls squarely on the plaintiff to demonstrate in what manner the pleading can be amended and how that amendment will change its legal effect. (*Ibid*.; accord, *Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1081 ["The plaintiff has the burden of proving that an amendment would cure the defect."].)

**DISPOSITION**

The judgment of dismissal is affirmed. Defendant and respondent shall recover its costs of appeal.

GRIMES, J.

WE CONCUR:

RUBIN, Acting P. J.

ROGAN, J.*

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* Judge of the Orange County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.