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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

DANIEL A. WEBER,

Plaintiff and Respondent,

v.

FLORENCE NICOLE
ANDONGELLA,

Defendant and Appellant.

B278657

(Los Angeles County
Super. Ct. No. BC560163)

APPEAL from a judgment of the Superior Court of Los Angeles County. Suzanne G. Bruguera, Judge. Affirmed.

Florence Nicole Andongella, in pro. per., for Defendant and Appellant.

Law Offices of Stephen M. Feldan and Steven M. Feldman
for Plaintiff and Respondent.

Defendant and appellant Florence Andongella appeals from a judgment, following a bench trial, quieting title in a home in favor of plaintiff and respondent Daniel Weber. A quitclaim deed had been recorded, purporting to transfer partial title to Andongella. The court concluded the quitclaim deed was a forgery which Andongella had fraudulently orchestrated. On that basis, the court found that Andongella had unclean hands in the transaction, which defeated any claim she may have to the property. On appeal, Andongella attempts to reargue the evidence. In accordance with the appropriate standard of appellate review, we conclude the trial court's judgment was well-supported, and therefore affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. *Overview*

The dispute in this case surrounds a house on Amigo Avenue in Reseda. Andongella and Weber were dating at the time the house was purchased. Now that their relationship has ended, they dispute the ownership of the house.

This much is agreed: In August 2007, the house was purchased by Weber and title was taken in his name only. In March 2008, Andongella recorded a quitclaim deed, purportedly signed and notarized in October 2007, transferring title from Weber individually to Weber and Andongella as joint tenants. The house was occupied by Weber and Andongella, as well as several people who rented rooms.

Weber took the position that the house was always exclusively his. He testified that he had saved for a house, shopped for houses, found the Amigo house, made an offer on it, and paid the deposit with his own funds. He intended to pay the mortgage with money from his own business and from renting

out a guest house on the property and several of the rooms in the house. Immediately after closing escrow, he obtained three tenants. Andongella, his girlfriend at the time, shared a room with him, but she also signed a lease and paid rent. Shortly after closing escrow, Weber went to Iowa for a few months to complete his unfinished classes at community college. He opened a joint bank account with Andongella in California, so that she could collect the rents and manage the property while he was away. He never signed the quitclaim deed and never knew about its existence until after the couple had broken up. Years later, when he learned that the quitclaim deed had been recorded, he brought suit to quiet title to the property.

In contrast, Andongella argued that the house was actually hers. She had saved for a house, shopped for houses, found the Amigo house, and made an offer on it. When she tried to obtain a loan, she was told that she was not qualified because she had no credit history. Weber, her boyfriend, agreed to use his credit to purchase the house in his name, but the house would be Andongella's. The down payment was made with her money. The mortgage payments, which were made by Weber from the joint account, came from Andongella's income, which was regularly transferred into the joint account. As to the quitclaim deed, Andongella testified that Weber flew back from Iowa on October 5, 2007. She gave him the quitclaim deed to sign on October 6; he signed it and left it in the salon where Andongella worked. The notary, the sister of one of Andongella's friends, then came to the salon and notarized the document after Weber had already left.

2. *The Pleadings*

On October 9, 2014, Weber filed a verified complaint to quiet title against Andongella. He also sued the notary, Kristin Harriman, for negligence.

On November 26, 2014, Andongella, who was self-represented, filed her answer. In the answer, Andongella admitted that Weber currently owned a 50% interest in the property in joint tenancy and that Andongella “purports to have an interest in the Property by [the] Quitclaim Deed” Some 10 months later, after she had obtained counsel, Andongella sought leave to file a cross-complaint to quiet title to the property in its entirety in her favor. The trial court denied the motion on the basis that it was brought in bad faith; Andongella could not now assert a 100 percent interest in the property after she had admitted, in her answer, that Weber owned a 50 percent interest.

At some point prior to trial, Weber dismissed his negligence cause of action against Harriman. The reason for the dismissal is unclear from the record. Harriman testified at trial that she was dismissed because the statute of limitations had run. She testified that she made no promises in exchange for the dismissal – specifically denying that she had promised to testify in favor of Weber in order to be dropped from the lawsuit.

3. *The Trial*

The case proceeded to a bench trial, where only four witnesses testified. Weber testified to his view of the facts, and was supported by Harriman. Harriman denied notarizing the quitclaim deed. October 6, 2007, the date she purportedly notarized it, was a Saturday. Harriman testified that she: (1) did not work on Saturdays in October 2007; (2) never notarized anything for Weber; (3) did not notarize a document at

Andongella's salon; (4) would not notarize a signature of someone not present; (5) requires thumbprints in her notary book when notarizing deeds; and (6) brought her book to trial, which shows no entry for the quitclaim deed. The quitclaim deed appears to bear her notary stamp; she has no idea how that happened. Harriman specifically testified that she never lost her seal, nor did she ever loan it to anyone.

Andongella testified to her view of the facts. Her sole supporting witness was Marlene Petri, the real estate agent who had represented Weber in the purchase of the house. Petri was Andongella's friend, and she testified that it was Andongella who had first wanted to purchase the Amigo house, but that Weber became the buyer when they found out that Andongella had no credit. Documentary evidence cast doubt on the veracity of this testimony.¹ Specifically, Weber provided a copy of the original offer he made on the Amigo house; neither Andongella nor Petri could produce a copy of the offer Andongella allegedly submitted first. According to Andongella, she had located the Amigo property in 2006 and made an offer on it in early 2007. She had been unable to get a loan to purchase the property in February 2007. However, the property was not listed for sale until June 2007.

4. *The Statement of Decision*

Neither party requested a statement of decision. However, it appears that, prior to trial, the court had invited the parties to

¹ The record on appeal does not contain the exhibits; it appears that they were returned to the parties after trial. Our discussion of the exhibits is necessarily limited to the testimony at trial discussing them.

provide proposed statements of decision. Weber did so; Andongella did not.

The court generally adopted the proposed statement of decision which had been submitted before trial by Weber. The court concluded, among other things, the following: The Amigo property had been originally acquired by Weber, with his funds. Andongella had signed leases and was a tenant, not Weber's partner in ownership. The quitclaim deed was void ab initio – having not been signed by Weber and not notarized by Harriman. More than that, Andongella preparation, execution and recordation of the quitclaim deed constituted unclean hands, precluding any claim to the property. The court added the following language to the proposed statement of decision: "The Court finds Ms. [Andongella] to have given testimony that lacked credibility. She presented false testimony while under oath. The Court finds she fraudulently orchestrated the preparation, execution and recording of the quitclaim deed. In addition, she fraudulently forged not[a]rization and testified falsely regarding her forgery and in support of her fraudulent actions presented absolute untruthful testimony through an additional witness."

Considering the court's statement of decision to be a proposed statement of decision, Andongella filed objections to it. Thereafter, the court entered judgment in favor of Weber, impliedly rejecting Andongella's objections.

5. *New Trial Motion*

Andongella filed a timely motion for new trial, arguing, among other things, that there were errors in the process which led to the statement of decision. In her reply in support of the new trial motion, Andongella argued that she had presented undisputed evidence at trial that she was the main source of

income for the deposit and mortgage payments on the property. She argued, “regardless of whether or not [she] is found to have had unclean hands in regards to the Quit Claim deed, the overwhelming evidence that she paid for the property and continued to do so for several years, does not act to disgorge the benefits of her monetary contributions to the property.” The new trial motion was denied.

6. *Appeal*

Andongella filed a timely notice of appeal. On appeal, Andongella is again self-represented. A party acting as her own attorney is to be treated like any other party and is entitled to the same, but no greater, consideration than other litigants and attorneys. (*ViaView, Inc. v. Retzlaff* (2016) 1 Cal.App.5th 198, 208.) Thus, as with attorneys, self-represented litigants must follow the correct rules of procedure. (*Ibid.*) Andongella’s opening brief violates the rules of court. Specifically, California Rules of Court, rule 8.204(a)(1)(C) requires that factual references be supported by citations to the record. Andongella’s discussion of the facts in her opening brief is devoid of record citations. She also refers to matters outside the record.² When a

² For example, at trial, Weber testified that Andongella signed two successive leases for a room in the house. Andongella testified that the signature on the leases looked like her signature, but was not hers. In her appellate brief, Andongella represents, for the first time, that “Weber fraudulently made Andongella sign a document that did not have a title and never explain[ed] to Andongella that [she] was signing a lease.” Andongella’s brief also states that Weber “with the help of a [crooked] lawyer” put himself in ownership of her beauty school, as part of a scam “according to one of her student[']s

party recites facts outside the record, we disregard all such assertions. (*ViaView*, at pp. 208-209.) Moreover, an “appellant has a duty to summarize the facts fairly in light of the judgment. [Citation.] The appellant’s brief must set forth *all* of the material evidence bearing on the issue, not merely the evidence favorable to the appellant. [Citations.]” (*City of Riverside v. Horspool* (2014) 223 Cal.App.4th 670, 674, fn. 3.) Andongella’s recitation of the facts, which is solely her side of the story, does not comply with this requirement.

DISCUSSION

On appeal, Andongella makes numerous contentions, which we have grouped into three categories: (1) challenges to the statement of decision procedures; (2) arguments regarding the sufficiency of the evidence; and (3) an assertion that the court cut off her counsel at trial.

1. *No Reversible Error in the Statement of Decision Procedure*

Andongella challenges the procedure regarding the statement of decision, claiming she was never served with the statement of decision, the statement of decision was inadequate, and the court never addressed her objections to it.

“In superior courts, upon the trial of a question of fact by the court, written findings of fact and conclusions of law shall not be required. The court shall issue a statement of decision explaining the factual and legal basis for its decision as to each of the principal controverted issues at trial upon the request of any party appearing at the trial. The request must be made within 10 days after the court announces a tentative decision unless the trial is concluded within one calendar day or in less than eight

statement[s].” No such evidence was introduced in evidence at trial.

hours over more than one day in which event the request must be made prior to the submission of the matter for decision. The request for a statement of decision shall specify those controverted issues as to which the party is requesting a statement of decision. After a party has requested the statement, any party may make proposals as to the content of the statement of decision.” (Code Civ. Proc., § 632.) “When a statement of decision does not resolve a controverted issue, or if the statement is ambiguous and the record shows that the omission or ambiguity was brought to the attention of the trial court . . . prior to entry of judgment . . . , it shall not be inferred on appeal . . . that the trial court decided in favor of the prevailing party as to those facts or on that issue.” (Code Civ. Proc., § 634.)

The trial court accepted the proposed statement of decision prior to trial. Whether, under these circumstances, the parties were required to request a statement of decision after trial, it is clear that Andongella received notice and an opportunity to object. Specifically, after trial, she was served with the court’s statement of decision, and she responded to it with written objections. We therefore conclude that Code of Civil Procedure section 634 applies, and that if the trial court failed to resolve a controverted issue, or the statement of decision was ambiguous, Andongella’s objections preserved the issue on appeal. Accordingly, we will not make inferences on appeal against Andongella with respect to that omission or ambiguity.

Although Andongella complains in general terms that the statement of decision did not consider the issues she raised, she identifies no specific controverted issue that she claimed in her objections was not addressed in the statement of decision. To the extent she argues that the court did not address her evidence

that her funds paid the deposit and mortgage, we disagree. As to the deposit, the statement of decision specifically states, “Weber paid [a] \$5,000.00 deposit and [a] \$27,868.00 additional down payment.” With respect to the mortgage, the statement of decision includes a finding that Andongella “signed two leases for a portion of the Amigo Avenue property,” a statement which explains why Andongella’s funds, in the form of rent, were ultimately used by Weber to help satisfy his monthly mortgage payments.

As to ambiguities in the statement of decision, Andongella points to only one: that the court did not identify the “additional witness” who testified untruthfully on her behalf. The court’s statement of decision stated that, in support of Andongella’s fraudulent actions, she “presented absolute untruthful testimony through an additional witness.” But Andongella had one witness besides herself: Petri. Thus, there was no ambiguity. Indeed, Andongella’s brief reflects her knowledge that Petri was the witness referenced in the statement of decision. Immediately after she states that the court did not identify the witness, she states, “That witness Marlene Petri happened to be the most important witness of the whole trial”

2. *The Evidence of Unclean Hands was Sufficient*

Andongella argues that there was insufficient evidence that she forged Weber’s signature and Harriman’s notarization on the quitclaim deed. She reargues the evidence, stating that she had no motive to falsify anything, but that Harriman lied, because Weber had blackmailed her to do so as part of his agreement to remove her from the lawsuit.

“The doctrine of unclean hands is a defense to an equitable action, including an action to quiet title. [Citation.] It rests on

the maxim that “ ‘he who comes into equity must come with clean hands.’ ” [Citation.] “The doctrine demands that a plaintiff act fairly in the matter for which he seeks a remedy. He must come into court with clean hands, and keep them clean, or he will be denied relief, regardless of the merits of his claim.” [Citation.] Whether the doctrine of unclean hands applies is a question of fact. [Citation.]” (*Aguayo v. Amaro* (2013) 213 Cal.App.4th 1102, 1110.) “We review the trial court’s decision to apply [the] unclean hands defense for abuse of discretion. [Citation.] We review the trial court’s factual findings under the substantial evidence test. [Citation.] ‘We presume the trial court’s factual findings are supported by the evidence, and it is the appellant’s burden to show that they are not.’ [Citation.]” (*Id.* at p. 1109.)

Here, the finding of unclean hands is supported by the evidence. Weber denied signing the quitclaim deed. His denial was supported by evidence that he was in Iowa on October 6, 2007, the date he purportedly signed it. Indeed, in order to foreclose additional testimony establishing Weber’s location, Andongella’s counsel offered a stipulation, which was accepted, that Weber was in Iowa on that date.

Harriman’s testimony, denying that she ever notarized the signature, was also well-supported. She brought her notary book to trial, and the book had no entry for the supposed notarization.

The trial court reasonably found Andongella’s testimony was unworthy of belief. She specifically testified that she picked Weber up at the airport on October 5, and that he came to her salon on October 6 to sign the quitclaim deed – in direct contradiction of her stipulation that Weber was in Iowa on that date. She testified that Harriman came into the salon to notarize

the signature after Weber had left, even though (1) the notary's jurat on the quitclaim deed states that Weber had "personally appeared" before her and acknowledged his signature; and (2) a willfully false statement of a notary could subject her to a civil penalty of up to \$10,000. (Civil Code, § 1189.) In other words, to believe Andongella, the court would have to believe that Weber was in Iowa and California simultaneously, and that Harriman willfully notarized a signature under circumstances that would subject her to liability.

Andongella suggests the court should have considered Government Code section 8207.3, which provides that a notary must notify the Secretary of State when she loses her seal. The argument, it appears, is that Harriman did not lose her seal, because, if she had, she would have notified the Secretary of State. The flaw in this argument is that Harriman testified that she never lost her seal. Thus, there would have been no need to notify the Secretary of State. To be sure, there was no solid explanation as to how Harriman's seal got on the quitclaim deed. But the absence of an explanation does not mean that Harriman either lost her seal or actually notarized the deed.³

In short, there is sufficient evidence that Andongella forged the quitclaim deed and faked its notarization. She arranged for the recordation of the deed, and claimed a 50 percent interest in

³ In fact, there was some evidence that Andongella either temporarily obtained Harriman's seal (without her knowledge) or had a copy of the seal. Weber once found, among Andongella's belongings, exhibit 26, which apparently contained notary stamps from Harriman. In closing argument, Weber's counsel described exhibit 26 as "a series of stamps on a sheet of paper that purport to be Kristin Harriman's stamp."

the property through it. This establishes her unclean hands, which defeats *any* of her claims to ownership of the property. Thus, we reject Andongella's argument, made in connection with her new trial motion, that regardless of whether the quitclaim deed was fraudulent, she nonetheless had an interest in the property to the extent of her monetary contributions. Unclean hands defeats any such claim.⁴

3. *There Were No Due Process Violations at Trial*

Finally, Andongella argues that the court violated her due process rights by arbitrarily cutting off the presentation of evidence at trial. Specifically, she argues that the court interrupted her attorney every time he was eliciting testimony regarding the financing of the home. She cites only a single example, but the record as a whole does not support her conclusion.

Andongella points to a moment when her counsel was cross-examining Weber with bank statements, asking questions about money transferred from Andongella's business to the joint account. The court asked counsel, "Why don't we have the witness [Andongella] testify about the accounts herself, if it's her money that's going in, instead of having him trying to figure out

⁴ At oral argument, Andongella argues, for the first time, that the court erred in refusing her leave to file her cross-complaint. Andongella's argument was in general terms and she did not expressly challenge the basis for the court's ruling – that the proposed cross-complaint sought a 100 percent interest in the property, in derogation of her previously-filed answer which had conceded Weber had a 50 percent interest. In any event, at trial, the court concluded that Andongella's unclean hands defeated any claim which she might have to the property. This finding would apply whether the interest sought was 50 or 100 percent.

what --” Andongella’s counsel immediately responded, “I’ll do that, Your Honor. No problem.” Later, when Andongella was on the stand, her counsel questioned her about the transfers. At one point, the court cautioned counsel to allow Andongella to testify, rather than testifying himself through questions. Andongella’s counsel stated that he was asking leading questions because Weber’s counsel was kind enough to not object. The court replied, “I know, but I’m the one making the decision.” The court stated it wanted to hear the witness directly. Andongella’s counsel stated, “Your Honor, I have the idea that somehow I’m trying to rush through this thing, and I shouldn’t do that.” The court responded, “Don’t rush. I have not rushed you.” Andongella’s counsel said, “Thank you. Thank you, Your Honor. Sorry. [¶] All right. Let’s start all over again. Okay?” The court replied, “Okay.” This exchange demonstrates that the court did not try to cut off Andongella’s presentation of financial evidence, but, instead, wanted to hear Andongella’s testimony on the point, unrushed, from the beginning.

DISPOSITION

The judgment is affirmed. Andongella is to pay Weber’s costs on appeal.

RUBIN, ACTING P. J.

WE CONCUR:

GRIMES, J.

DUNNING, J.*

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