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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

DURANT HARVESTING,
INC.,

Plaintiff and Respondent,

v.

ANGELINA DETTAMANTI,

Defendant and Appellant;

DAVID Y. FARMER, as
Trustee, etc.,

Real Party in Interest and
Respondent.

2d Civ. No. B296096
(Super. Ct. No. 18CV06350)
(Santa Barbara County)

Angelina Dettamanti, former trustee, appeals superior court orders issued against her involving the Carrari Family Trust (the Trust) and its ranch property. Respondent David Farmer, the temporary trustee, filed an ex parte application against Dettamanti in this interpleader action alleging, among

other things, that she improperly removed property from the ranch and prevented Farmer from performing his duties as trustee. The trial court granted Farmer's application for the use of the funds deposited in this action to perform his trustee's duties. It then issued an order requiring Dettamanti to immediately leave the ranch and not return.

We conclude, among other things, that the trial court had personal jurisdiction over Dettamanti and the authority to issue orders preventing her from interfering with the current trustee's duties and his ability to manage ranch property. But the court erred in ordering Dettamanti to immediately leave the property on the ranch and not return because: 1) the court did not make findings on her claim that she had a right to live there based on a lease agreement; 2) the court did not decide what type of tenancy she had or whether she had a right to possession based on her status as a ranch manger, employee or by contract; 3) before issuing the eviction order, the court did not decide whether that order would violate Dettamanti's procedural rights as a tenant under the unlawful detainer statutes (Code Civ. Proc., §§ 1159-1179a); 4) the order evicting Dettamanti went beyond the scope of authority requested by the trustee in the notice of relief requested in Farmer's ex parte application; and 5) the court's proceedings relating to eviction violated Dettamanti's procedural rights. We reverse and vacate the eviction orders involving Dettamanti and remand with instructions. The remaining rulings and orders are affirmed.

FACTS

Dettamanti was designated as the trustee of the Trust in 2018. The trustee has the authority to oversee the operations and management of the Carrari ranch. Dettamanti claimed

Joseph Carrari, the trustor, wanted her to be the trustee because he “did not trust his family members.” Dettamanti was Carrari’s personal assistant in 2016 and she became the manager of his ranch in 2017. After Carrari’s death, his children filed actions to remove Dettamanti as trustee. Dettamanti continued to live on the ranch and was the ranch manager.

The Trust litigation now involves six related pending cases. In one of those cases, respondent Durant Harvesting, Inc. (Durant), who had an agricultural lease on the ranch property, filed an interpleader action against the Trust, Dettamanti, and others who claimed to be trustees to determine its obligations on its lease.

On December 3, 2018, Judge Staffel issued an order in another related probate case involving the Trust (*In re The Carrari Family Trust, Linda Kopcrak*, petitioner, *Joseph F. Carrari*, trustee, No. 18PR00334). That order permitted Dettamanti “to remain residing at the Ranch to preserve the status quo until further order of the Court.” It also provided, “Neither Angelina Dettamanti or any of her associates will remove *any items from the Ranch* pending further order of this Court.” (Italics added.)

On January 15, 2019, Judge Staffel suspended Dettamanti as trustee and appointed Farmer as temporary trustee of the trust. He ordered Dettamanti to deliver to Farmer “all financial records, books, checkbooks, and any other documents concerning the administration of [the Trust].” Attorney Rodney Lee represented Dettamanti at that hearing.

On January 29, 2019, Farmer, as temporary trustee, filed an ex parte application in the Durant action. He sought “release of \$110,000 of the interpled funds” and claimed relief against

“Dettamanti and her associates” was warranted because they had removed personal property from the Carrari ranch in violation of the court’s December 3rd order. Farmer attached declarations and claimed Dettamanti did not assist him in “securing the Trust Property,” she “refused to turn over the Carrari Family Trust books and records,” and she “refused to acknowledge the orders of this Court appointing [Farmer].” Farmer said he needed the “interpled funds” to “remove unauthorized occupants” who were denying him access to the ranch and preventing him from performing his trustee’s duties.

Dettamanti was not present for the January 30, 2019, hearing on Farmer’s application. On January 31, the trial court granted Farmer’s application for release of the “interpled funds.” It granted Farmer authority to use those funds to “secure Carrari Family Trust property,” to retain counsel, to appear in pending actions involving the Trust, and to “remove unauthorized occupants.”

In that order Judge Staffel also said, “Due to actions taken since December 3, 2018, the Court hereby rescinds its order contained in paragraph 3 of the December 3, 2018 court order which permits Angelina Dettamanti to remain residing at the Ranch Property. As of January 30, 2019, Angelina Dettamanti is no longer permitted to reside at or enter the Ranch Property.”

On February 7, 2019, Dettamanti filed an “ex parte application to vacate and/or reconsider [the] January 31, 2019 order that Angelina Dettamanti vacate her home.” (Capitalization omitted.) She claimed the part of the order the court issued which barred her access to the ranch property that she “resides on and manages” was void because: 1) she did not receive notice of Farmer’s application, and 2) she could not be

evicted without being served a summons and complaint for unlawful detainer.

At the February 8th hearing on Dettamanti's application, the trial court said, "I think Ms. Dettamanti had actual notice." It set the matter for an evidentiary hearing. Dettamanti's new counsel appeared and agreed to accept service of the pleadings. He objected to the court's eviction order and stated Dettamanti was "being evicted" by the court "without an unlawful detainer action." The court ruled, "All current orders shall remain in full force and effect until the next hearing."

At the February 15th hearing, Dettamanti testified that she had "a rental or lease agreement to live" on the ranch as part of "her employment contract" to manage the ranch. She claimed the property she removed did not involve trust items. She had permission to move the items and she put them in storage. She said that Farmer falsely accused her of stealing a vehicle.

Farmer testified Dettamanti did not cooperate with him. Dettamanti did not provide him with the Trust records and documents; she did not assist him in identifying and collecting the Trust assets. Property had been removed from the ranch, which violated provisions of the Trust.

The trial court found Dettamanti's actions "interfered with the duties of the interim trustee." She had a duty to cooperate with Farmer. The current trustee may conduct the ranch operations without her assistance. The court said, "I'd like to find a way to have [Dettamanti] maintain a residence on the property to the extent possible What I'm trying to do is maintain the status quo while we proceed with the trust litigation. [T]he Court's intent would be to try to maintain [Dettamanti] in the residence that's on the property as long as

she doesn't interfere with the other operations." But the court ultimately rejected Dettamanti's request to return to the ranch and vacate the January 31st and February 8th eviction orders.

On February 21, 2019, Judge Staffel recused himself from this case after learning Dettamanti had filed a federal civil rights action against him.

We grant the parties' request to take judicial notice that on June 3, 2019, Judge Sterne ruled, "[T]he orders from . . . February 15 are not void for lack of personal jurisdiction over Dettamanti or for lack of sufficient notice."

DISCUSSION

Appealable Orders

Dettamanti contends the trial court's orders, which required her to leave the ranch and stay away, were "void for lack of jurisdiction."

Farmer and Durant claim this appeal must be dismissed. They contend the orders appealed from are not final, are not injunctive relief orders, and are consequently not appealable. They claim the current appeal is premature.

Dettamanti claims the trial court's orders constitute orders granting "an injunction" and are appealable under Code of Civil Procedure section 904.1, subdivision (a)(6). We agree.

Courts often issue orders in family trust cases to protect a trustee's authority and to protect trust property. They are interim orders pending determination of the rights of the various parties. But the orders in this case, in practical effect, have the same impact as if the court had issued a preliminary injunction. They required Dettamanti to leave the property and prohibit her from returning.

In addition, “ ‘When a court renders an interlocutory order collateral to the main issue, dispositive of the rights of the parties in relation to a collateral matter, and directing payment of money *or performance of an act*, direct appeal may be taken.’ ” (*Apex LLC v. Korusfood.com* (2013) 222 Cal.App.4th 1010, 1015-1016, *italics added*.) Here the court ordered Dettamanti to perform an act by requiring her to leave the property. We proceed to the merits.

*Personal Jurisdiction and Adequate Notice for the
January 30th Ex Parte Application Hearing*

Dettamanti contends the trial court lacked personal jurisdiction over her when it issued its January 31, 2019, order because: 1) she was not served with a summons and complaint in the Durant action, and 2) there was a lack of “proper” notice for the hearing on Farmer’s ex parte application.

Durant responds: 1) Dettamanti “was evading service of the summons and complaint”; 2) it attempted service of the summons and complaint at Dettamanti’s address that she had provided for service—a P.O. box, but “she only checks her mailbox sporadically”; and 3) service of the summons and complaint for the Durant case is now “of little or no consequence” and moot because Dettamanti’s counsel agreed to accept service. As will be discussed later, Durant correctly notes that Dettamanti accepted service of the summons and complaint and made a general appearance in the Durant action. The relevant issue is not service of the summons, it is whether proper notice was given for the hearing on Farmer’s ex parte application. (*Chrysler Credit Corp. v. Waegle* (1972) 29 Cal.App.3d 681, 687.)

The respondents claim the trial court properly found that Farmer gave valid notice of that hearing. Farmer sought an ex

parte application for authority to use the interpled trust money deposited into the Durant case. He claimed he needed those funds to hire legal counsel to protect the Trust ranch property from irreparable, on-going harm.

Trial courts may issue ex parte temporary restraining orders (TRO) or emergency relief orders to protect property interests. (*Chrysler Credit Corp. v. Waegele, supra*, 29 Cal.App.3d at p. 687.) In certain cases, an emergency order or TRO may issue without prior notice if there is immediate irreparable harm. (*Id.* at p. 686.) But to be consistent with constitutional protections for an opposing party, the one who seeks an ex parte TRO or emergency order should make “a reasonable effort in good faith to give notice, in either formal or informal fashion, to either the defendant or his counsel.” (*United Farm Workers v. Superior Court* (1975) 14 Cal.3d 902, 913; see also *Miller v. Superior Court* (1978) 22 Cal.3d 923, 929 [hearing on ex parte/restraining orders “will often be held promptly—perhaps immediately”].) Here Farmer elected to give prior notice.

Courts have broad powers in cases involving trusts to take immediate action to protect trust property and may, in some instances, do so on their own motion. (*Schwartz v. Labow* (2008) 164 Cal.App.4th 417, 427; see also *Babbitt v. Superior Court* (2016) 246 Cal.App.4th 1135, 1144 [the court has “general power and the duty to supervise the internal affairs and administration of trusts”].) Here Farmer as temporary trustee sought immediate relief involving the Trust property.

Dettamanti was not present at the January 30, 2019, hearing on Farmer’s ex parte application. The trial court asked Farmer’s counsel whether Lee, Dettamanti’s counsel, had been served.

Farmer's counsel responded that he had served Lee with "the paperwork." He said he sent a letter to Lee, a "voicemail message," an "e-mail," "as well as the paperwork that was electronically served." In his declaration Farmer's counsel said Lee told the trial court that he represented Dettamanti and he "would receive process at his office." Farmer's counsel left a voice mail message advising Lee of the time and place of the hearing on the ex parte application. He called Dettamanti's cell phone number to give her notice. "She did not answer and her voice mail was full." The cell phone number he called was the number Dettamanti had listed on a substitution of attorney form in a related Carrari trust case. He made sure that notice was sent to Dettamanti at her e-mail address and at her home address of P.O. Box 556, Los Alamos, California.

Durant's counsel said, "On December 21, 2018, in the course of a court hearing, Ms. Dettamianti personally represented to the Court and to . . . legal counsel the address that she required *for service of any documents in these cases.*" (Italics added.) He said that address was P.O. Box 556, Los Alamos, California. Counsel provided a transcript of court proceedings to support this claim. Dettamanti did not dispute that this was her correct P.O. Box that she had provided as her residential service address.

Helen Houser filed a declaration stating she served by "electronic transmission" Farmer's ex parte application to attorney Lee's e-mail address and to Dettamanti's e-mail address. She said the "transmission was reported as *complete and without error.*" (Italics added.) She filed a second declaration declaring that she served Farmer's declaration in support of his ex parte application to both of those e-mail addresses, and the

transmission was also reported as “complete and without error.” In a third declaration she said she served by electronic transmission the declaration of Tom Durant to the e-mail addresses of Lee and Dettamanti. The face sheet of that declaration included the date, time, and place of the hearing on Farmer’s ex parte application.

The declaration of Farmer’s counsel included a copy of the e-mail notice he sent to Dettamanti, advising her of the nature of the proceedings and the date, time, and place of the hearing on Farmer’s ex parte application.

The trial court found that Lee was authorized to accept service for Dettamanti and that Farmer provided valid notice for the ex parte application hearing.

Dettamanti contends Lee was not authorized to accept service for her in this case and the trial court’s findings on this issue are not supported by the record.

But the trial court found Lee “stated on the record and in front of this Court that he would accept service on behalf of Ms. Dettamanti.” It said this occurred at a January 15, 2019, hearing on two related trust cases where Lee was representing Dettamanti. The court said it continued a hearing in one of those cases to April 23, 2019, based on Lee’s claim that he would be representing Dettamanti at that future hearing. In making these findings, the court relied on a transcript of proceedings from two cases that are not part of the record on appeal. “ ‘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’ ” (*Null v. City of Los Angeles* (1988) 206 Cal.App.3d 1528, 1532.) Given the record, we must presume the documents not before us support the trial court’s findings on this

issue. (*Ibid.*) But, even so, the findings are consistent with the declaration of Farmer’s counsel. Moreover, in addition to rejecting Dettamanti’s claim that Lee lacked authority to accept service, the court also found that Dettamanti “had actual notice.”

Dettamanti notes that she filed a declaration, stating that she was not served with the ex parte notice, she “did not know of the hearing,” and she claims she stated facts showing why service was invalid. But these were contested factual issues. The trial court resolved the conflict against Dettamanti. We do not resolve evidentiary disputes. “We presume the court found in [Farmer’s] favor *on all disputed factual issues.*” (*Strasbourger Pearson Tulcin Wolff Inc. v. Wiz Technology, Inc.* (1999) 69 Cal.App.4th 1399, 1403, italics added.)

Jurisdiction at the February 8th and 15th Hearings

Dettamanti contends the January 31st order was void for lack of service, and therefore the trial court did not have jurisdiction at the February 8th and 15th hearings to make orders and rulings. We disagree.

At the February 8th hearing, in response to Dettamanti’s challenge to the validity of service, the trial court said, “I think Ms. Dettamanti had actual notice.” But it also indicated that it wanted to resolve any controversy about the service issue. It said, “Let’s get proper service and figure this out.”

Dettamanti’s counsel agreed to make a general appearance in this action on February 8, and Dettamanti concedes she “agreed to accept service” on that date.

A general appearance “operates as consent to the court’s exercise of jurisdiction in the proceeding.” (*In re Marriage of Obrecht* (2016) 245 Cal.App.4th 1, 7.) “By generally appearing, a defendant *relinquishes all objections* based on lack of personal

jurisdiction or defective process or service of process.” (*Id.* at p. 8, italics added.) Such an appearance is “‘equivalent to personal service within this state of the summons and a copy of the petition upon [the defendant].’” (*Ibid.*)

Even assuming *arguendo* that the trial court lacked jurisdiction on January 31, Dettamanti’s general appearance on February 8 was consent for the court to exercise jurisdiction on February 8. (*In re Marriage of Obrecht, supra*, 245 Cal.App.4th at p. 7; *Fireman’s Fund Ins. Co. v. Sparks Construction, Inc.* (2004) 114 Cal.App.4th 1135, 1147 [general appearance confers “jurisdiction of the person and the court is empowered to act”].) Consequently, even if the January 31st order was jurisdictionally void, the court had jurisdiction on February 8 and 15. (*Obrecht*, at p. 7.)

Incorrect Forum

Dettamanti contends “[t]he January 31, 2019 order was in a civil interpleader action [Durant], but it amended an order in a *probate* action that was not yet declared related to the interpleader case” She suggests the Durant interpleader case was an incorrect forum to try trust issues.

On February 8, 2019, the trial court issued an order that the Durant case was related to the other probate cases involving the Trust and estate. On June 3, 2019, the court again ruled the Durant civil interpleader action was related to the five probate cases involving the Trust.

Dettamanti contends the trial court incorrectly ruled that prior to the February 8th order, the Carrari trust cases were related actions. She notes that her counsel asked Judge Staffel if these cases were declared related. The court answered by citing case Nos. 18CV02910 and 18PR00182, and stating they were

“heard together in Department 2” and were “clearly related.” Dettamanti challenges this finding. But the record on appeal does not include the pleadings and relevant documents from the two case files the court cited to support its finding. We must presume that documents not before us support the trial court’s finding on this issue. (*Null v. City of Los Angeles*, *supra*, 206 Cal.App.3d at p. 1532.)

As will be discussed later, Dettamanti correctly notes that Farmer and Durant have not shown how the Durant case was the proper forum to seek her eviction. But the trial court had subject matter jurisdiction to proceed in the Durant action on other trust-related issues. “The superior court is divided into departments, including the probate department, as a matter of convenience; but the subject matter jurisdiction of the superior court is vested as a whole.” (*Estate of Bowles* (2008) 169 Cal.App.4th 684, 695.) “[A] nonprobate department *does not* lack fundamental jurisdiction over a probate matter.” (*Harnedy v. Whitty* (2003) 110 Cal.App.4th 1333, 1344.) Trial courts have discretion to decide how to coordinate cases and select issues to be bifurcated and tried in the various actions. (*Royal Surplus Lines Ins. Co. v. Ranger Ins. Co.* (2002) 100 Cal.App.4th 193, 205; *McGhan Medical Corp. v. Superior Court* (1992) 11 Cal.App.4th 804, 812.) Where there are related issues in different cases involving the same subject matter, courts have inherent authority to decide in which case the issues should initially be decided. (Code Civ. Proc., § 386, subd. (f); *Vargas v. Municipal Court* (1978) 22 Cal.3d 902, 911-912.)

Dettamanti has not shown that the current action was not the proper forum to try certain trustee authority issues that required immediate resolution. The Durant interpleader case

raised trust-related issues. Its goal was to determine who was entitled to receive Durant's funds. That money belonged to the Trust and was needed to manage the Trust property. Durant alleged there was a dispute over whether Dettamanti or others should be the trustee. It sued those individuals and claimed there was an unresolved issue involving who should receive the interpled funds. Farmer's ability to perform his duties as temporary trustee depended on the availability of the funds in the Durant action. He could not properly make an application for release of those funds from any other case. Consequently, the court had to approve his use of those funds to manage the ranch and perform his duties. But Farmer claimed Dettamanti's conduct was an obstacle to the performance of his duties. The court could reasonably find the trustee's authority issues required immediate resolution in the Durant interpleader case even though the parties had raised related issues in other cases. (Code Civ. Proc. § 386, subd. (f) [court in interpleader case may restrain the parties from litigating issues in other cases until after resolution of the interpleader issues].)

Dettamanti and Farmer were parties in this action. Judge Staffel was properly qualified to rule on the relevant trust issues. He presided over the Durant case and the related probate case where he had issued the December 3rd order prohibiting Dettamanti from removing any items from the ranch. He had previously ordered Farmer appointed as the temporary trustee and he had ordered Dettamanti to cooperate with him.

Dettamanti made a general appearance in this action. She litigated the issues here and presented evidence. She consequently consented to the court's authority to make interim or temporary rulings on the Trust issues and she has not shown

it lacked personal or subject matter jurisdiction to do so. (*Babbitt v. Superior Court*, *supra*, 246 Cal.App.4th at p. 1144; *In re Marriage of Obrecht*, *supra*, 245 Cal.App.4th at p. 7; *Schwartz v. Labow*, *supra*, 164 Cal.App.4th at p. 427; *Harnedy v. Whitty*, *supra*, 110 Cal.App.4th at p. 1344; *Gunn v. Giraudo* (1941) 48 Cal.App.2d 622, 631.)

The December 3rd Order Precluding Removal of Property

Respondents contend the trial court had the authority to order Dettamanti not to remove property from the ranch and it could impliedly find she violated the December 3rd order prohibiting property removal.

Courts have the power “[t]o preserve the trust and to respond to perceived breaches of trust” by taking “action necessary or proper to dispose of the matters presented.” (*Schwartz v. Labow*, *supra*, 164 Cal.App.4th at p. 427.) The court’s inherent power to protect a trust estate may, in some cases, authorize it to take action on its own motion. (*Ibid.*) Dettamanti has not shown the court lacked authority to issue the December 3rd order.

Dettamanti contends she could not be found to be in violation of that order because she had the right as manager to move property on the ranch. She contends the December 3rd order only prevented her from removing “trust assets.” But that order states she was precluded from removing “*any items* from the Ranch.” (*Italics added.*) Dettamanti contends that before the court signed the December 3rd order, it had been discussing the issue of trust assets; it therefore had no legal authority to change or enlarge the order to preclude removal of “any items” when it later signed the December 3rd order. We disagree.

A court may properly change its initial decision before it makes its final order, and its earlier views “may never be used to impeach the order or judgment.” (*Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal.App.3d 577, 591; *In re Marriage of Ditto* (1988) 206 Cal.App.3d 643, 646-647.) The court impliedly found against Dettamanti on the property removal issue at the January hearing. But after hearing her testimony at the February 15th hearing, the court did not appear to consider the property removal issue to be significant or dispositive for its rulings.

Substantial Evidence

Dettamanti contends the evidence presented at the February 15th hearing does not support the trial court’s findings. At that hearing, the trial court found Dettamant’s actions “interfered with the duties of the interim trustee.”

“ ‘ “We are . . . bound . . . by the substantial evidence rule.” ’ ” (*Salehi v. Surfside 111 Condominium Owners Assn.* (2011) 200 Cal.App.4th 1146, 1154.) “ ‘The judgment of the trial court is presumed correct.’ ” (*Ibid.*) We draw all reasonable inferences in support of the court’s findings. We do not decide the credibility of the witnesses. “ ‘We presume the court found in [respondents’] favor on all disputed factual issues.’ ” (*Ibid.*)

Dettamanti was the former trustee. Farmer, the current trustee, testified Dettamanti did not cooperate with him as trustee. She did not provide him with the Trust records and documents that the trial court had ordered to be provided. Farmer needed assistance in locating the Trust bank accounts. Dettamanti provided no assistance. She did not help him in identifying and collecting the Trust assets. She did not provide any document that she was required to produce. Farmer said

Dettamanti did not respect his authority as trustee. Dettamanti wanted to impose “conditions” about who she would allow on ranch property that conflicted with his goals in managing ranch operations.

From Farmer’s testimony, the trial court could reasonably infer Dettamanti’s actions interfered with Farmer’s performance of his duties as temporary trustee. The court may properly issue orders preventing a former trustee from interfering with a current temporary trustee’s authority. (*Schwartz v. Labow*, *supra*, 164 Cal.App.4th at pp. 427, 431.)

The Orders Requiring Dettamanti to Leave the Property

Dettamanti contends the trial court erred by immediately barring her “from her own home” on the ranch and refusing to let her return. She claims Farmer’s assertion that she did not cooperate with him “would not suffice to eject [her] from her home” and render her “homeless.” She argues the immediate eviction order was not procedurally authorized.

Farmer contends that, as a result of his *ex parte* application, the trial court properly ordered Dettamanti immediately evicted from the property because she, among other things, did not cooperate with him as trustee. But in his *ex parte* application, Farmer did not give notice that he was seeking her eviction. Durant contends Dettamanti was properly evicted by the order issued in this case. But in its interpleader complaint, Durant did not allege that it had a right of ownership or possession to the property where Dettamanti resided in, and it consequently did not allege a cause of action for an eviction. (*Baugh v. Consumers Associates, Ltd.* (1966) 241 Cal.App.2d 672, 674-675.)

Neither Farmer nor Durant have shown what cause of action pled *in this case* would authorize Dettamanti's eviction. (*Dabney v. Dabney* (2002) 104 Cal.App.4th 379, 383 ["[N]o court has inherent authority to decide a matter for which there is no legally recognized cause of action"].) " '[The] test of the jurisdiction of a court is to be found in the nature of the case as made by the complaint and the relief sought.' " (*In re Circosta* (1963) 219 Cal.App.2d 777, 789-790; *Silverman v. Greenberg* (1938) 12 Cal.2d 252, 254.) Courts and parties may not rely on alternative causes of action to obtain a summary eviction in lieu of the specifically authorized state eviction procedures. (*Baugh v. Consumers Associates, Ltd., supra*, 241 Cal.App.2d at pp. 674-675; *Revis v. Meldrum* (6th Cir. 2007) 489 F.3d 273, 281 [tort cause of action did not provide a constitutionally adequate process for obtaining a party's summary eviction].)

For multiple additional reasons, the eviction orders issued against Dettamanti must be reversed.

Dettamanti testified she lived on the ranch starting in "mid 2018." She had "a rental or lease agreement to live there" as "part of [her] employment contract" for her work on the ranch. She said her right to live there is included in a written agreement. She was the ranch manager at the time the court issued its January 31st order. She identified an exhibit showing the house where she resided on the ranch.

The trial court ordered her to immediately leave the property, but it did not make findings on the nature of her lease, tenancy, her right of possession based on her status as ranch manager, employee or written contract. The failure to make findings on these material issues constitutes reversible error. Dettamanti had raised the issue of her procedural rights as a

tenant under the unlawful detainer statutes. (Civ. Code, § 1946; Code of Civ. Proc., §§ 1159-1179a.) She objected to the eviction order, stating it “improperly ordered her to leave her home in an interpleader funds case *with no unlawful detainer process*.” (Italics added.) The unlawful detainer action is the lawsuit “designed to permit landlords to recover possession of real property from a tenant wrongfully in possession.” (*Glendale Fed. Bank v. Hadden* (1999) 73 Cal.App.4th 1150, 1153.) Whether the court’s eviction order contravened her rights to be served with an unlawful detainer action is a material issue.

If Dettamanti had a rental agreement, a written lease, month-to-month tenancy, an oral month-to-month tenancy, a tenancy at will, or a tenancy at sufferance, she would be entitled to procedural rights prior to an eviction order, including: 1) the right to be served with a summons and complaint for unlawful detainer, 2) the right to file an answer raising affirmative defenses to protect her right of possession, 3) the right to a jury trial on whether the tenancy should be terminated. (*Marquez-Luque v. Marquez* (1987) 192 Cal.App.3d 1513, 1518.) If Dettamanti had a lease or was a tenant, the trial court’s removal order would deprive her of these protections.

It would also deprive her of her right to due process. As the court stated in *People ex rel. Dept. of Transportation v. Lucero* (1980) 114 Cal.App.3d 166, 170-171, the tenants “had a property interest in their month-to-month tenancies which entitled them to continued occupancy until expiration of a 30-day notice to quit. Further, before a judgment evicting them was entered, they were entitled to a due process hearing as to whether the tenancies had been effectively so terminated.”

Where a tenant is denied these rights, “the court lacks jurisdiction to evict” or terminate the lease or tenancy. (*Marquez-Luque v. Marquez*, *supra*, 192 Cal.App.3d at p. 1518; *People ex rel. Dept. of Transportation v. Lucero*, *supra*, 114 Cal.App.3d at pp. 170-171.) The right of agricultural employees who live on a ranch to raise defenses to evictions in unlawful detainer actions is well established. (*Vargas v. Municipal Court*, *supra*, 22 Cal.3d at pp. 913-914 [agricultural employees living in company owned housing had the right to a determination in an unlawful detainer action as to whether their employer lawfully terminated their employment before they could be evicted]; *S.P. Growers Assn. v. Rodriguez* (1976) 17 Cal.3d 719, 724 [tenants may defend their right of possession of housing on their employer’s agricultural property in unlawful detainer actions and raise eviction defenses]; see also *Spinks v. Equity Residential Briarwood Apartments* (2009) 171 Cal.App.4th 1004, 1041 [employees receiving housing as part of their employment may have a right of continuing possession based on a tenancy].)

Probate courts have broad powers in trust cases. But, as stated in *Marquez-Luque v. Marquez*, if administrators of a deceased property owner’s estate “desired prompt eviction” of a tenant, “an unlawful detainer action *was their remedy*.” (*Marquez-Luque v. Marquez*, *supra*, 192 Cal.App.3d at p. 1518, *italics added*.) Tenants in trust/probate-related proceedings may not be subject to eviction orders that deny them the right to due process and equal protection that is guaranteed to all tenants under state law. (Civ. Code, § 1946; Code Civ. Proc., §§ 1159-1179a; *Lindsey v. Normet* (1972) 405 U.S. 56, 77; *Marquez-Luque*, at p. 1518; *People ex rel. Dept. of Transportation v. Lucero*, *supra*,

114 Cal.App.3d at pp. 170-171; *Gray v. Whitmore* (1971) 17 Cal.App.3d 1, 27-28.)

Moreover, the trial court's order evicting Dettamanti goes beyond what Farmer sought in his "notice" of relief requested in the ex parte application. There Farmer stated he needed the "interpled funds" to "remove *unauthorized occupants* who are denying the Temporary Trustee physical access to the property and refusing to identify themselves." (Italics added.) Farmer said Dettamanti *was not* one of the unauthorized occupants. He said she "was allowed to continue to reside at the Carrari Ranch." The court granted Farmer's application for funds "to remove unauthorized occupants." It also decided, however, to evict Dettamanti. But when the court issued its January 31st eviction order, Dettamanti had not received "fair notice" that she would be evicted based on the relief Farmer sought on the notice provided on his ex parte application. (*In re Ruffalo* (1968) 390 U.S. 544, 550; *Doe v. University of Southern California* (2016) 246 Cal.App.4th 221, 240-241; *Richmond Tenants Organization, Inc. v. Kemp* (4th Cir. 1992) 956 F.2d 1300, 1306.) Courts may not order people out of their homes where they did not receive due process notice that their eviction was the issue to be decided. (*Ruffalo*, at p. 550; see also *Greene v. Lindsey* (1982) 456 U.S. 444, 451-452; *Goldberg v. Kelly* (1970) 397 U.S. 254, 267-268; *Arrieta v. Mahon* (1982) 31 Cal.3d 381, 389; *Richmond Tenants Organization*, at p. 1306.)

In addition, the trial court's stated goal was to maintain the "status quo." But after Dettamanti's eviction, this meant the burden shifted to her to prove why the eviction should be set aside and the status quo overturned. The burden, however, should have been placed on Farmer to first give valid notice and

then prove his right to evict her. (*Armstrong v. Manzo* (1965) 380 U.S. 545, 551-552.) The February 15th *post-eviction* hearing did not cure the notice defect because of the prejudicial shift in the litigation burden now placed on Dettamanti to overcome the status quo as an evicted person. (*Ibid.*)

“California law mandates compliance with certain statutory or common law procedures to retake possession of real property.” (*Rickley v. Goodfriend* (2013) 212 Cal.App.4th 1136, 1154.) Farmer’s ex parte application is not one of the four types of procedures mentioned in *Rickley*. (*Ibid.*; *Dabney v. Dabney*, *supra*, 104 Cal.App.4th at p. 383.) Moreover, the swift impact of the January 31st eviction order was substantial and unfair. Dettamanti said, “I cannot just leave my home on such short notice and without a place to go.” A tenant or occupant of the premises subject to an eviction from a judgment for possession of real property is entitled to a post-judgment writ of possession providing the tenant or occupant with five days’ notice to leave the premises. (Code Civ. Proc., § 715.010, subd. (a), (b)(1), (2).) Here there was no post-judgment writ of possession or notice as required by statute. The *January 31*, 2019, order required Dettamanti to leave “as of *January 30*, 2019.” (Italics added.) That was not a valid eviction order. (*Bedi v. McMullan* (1984) 160 Cal.App.3d 272, 276-277.)

DISPOSITION

The orders requiring Dettamanti to leave the property and not return are reversed and vacated. The matter is remanded to the trial court to determine whether Dettamanti had a lease or was a tenant; to make findings on the nature of her tenancy or occupancy; and to determine whether she has a right of possession, a right to receive a 30-day notice, and a summons and

complaint for unlawful detainer. The court shall otherwise proceed in a manner consistent with this opinion. The remaining rulings and orders are affirmed. Costs on appeal are awarded to appellant.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

YEGAN, J.

TANGEMAN, J.

Timothy J. Staffel, Colleen K. Sterne, Judges

Superior Court County of Santa Barbara

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