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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

ALBERT AN et al.,

Plaintiffs and Appellants,

v.

IL YOON KWON et al.,

Defendants and Respondents.

B228918

(Los Angeles County  
Super. Ct. No. BC343236)

APPEAL from a judgment of the Superior Court of Los Angeles County, Mel Red Recana, Judge. Reversed with directions.

Law Offices of Do Kim and James Do Kim for Plaintiffs and Appellants.

Lee & Oh, Daniel Lee and Eric A. Kuzdenyi for Defendants and Respondents.

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This appeal requires a straightforward reversal because the trial court, having announced that it would issue a statement of decision, failed to do so. That error is reversible per se. (See *Miramar Hotel Corp. v. Frank B. Hall & Co.* (1985) 163 Cal.App.3d 1126, 1127.)

The case was tried to the court. On May 6, 2010, the last day of trial, the trial court announced it would issue a statement of decision. After the parties presented closing arguments by way of written memoranda, the court designated defendant's counsel to prepare a proposed statement of decision and a proposed judgment. Counsel complied and lodged the documents with the court.

Plaintiffs filed objections to the proposed statement of decision, and defendants filed an opposition to the objections. The trial court overruled the objections and entered judgment in favor of defendants. The *proposed* statement of decision, previously lodged, was left untouched. It was not filed and sent to the parties. Nor did the trial court adopt the proposed statement of decision as *the* statement of decision. The document appears in the record on appeal, bearing its original title, “[PROPOSED] STATEMENT OF DECISION.” (Bracketed material in original.) Plaintiffs appealed.

“A statement of decision is as much, or more, for the benefit of the Court of Appeal as for the parties. It ‘is our touchstone to determine whether or not the trial court’s decision is supported by the facts and the law. . . .’ . . . The importance of the statement is underscored by the rule that a trial court’s failure to render a statement of decision is reversible error.” (*In re Marriage of Sellers* (2003) 110 Cal.App.4th 1007, 1010, citation omitted.) It is irrelevant that, here, the trial court voluntarily undertook to issue a statement of decision as opposed to waiting for a party to request one. (See *Saks v. Charity Mission Baptist Church* (2001) 90 Cal.App.4th 1116, 1149.)

By statute, “[t]he court [is required to] *issue* a statement of decision explaining the factual and legal basis for its decision as to each of the principal controverted issues at trial . . . .” (Code Civ. Proc., § 632, italics added.) It is not necessary that the trial judge sign a statement of decision. (See Cal. Rules of Court, rule 3.1590; Wegner et al., Cal. Practice Guide: Civil Trials and Evidence (The Rutter Group 2011) ¶ 16:190.7, p. 16-45

(rev. # 1, 2009).) But the trial court must take some type of formal action to indicate it has adopted the *proposed* statement of decision as the statement of decision. (See Webster’s New Internat. Dict. (2002 ed.) p. 1201, col. 3 [defining “issue” as “becom[ing] available through being officially put forth or distributed or granted or proclaimed or promulgated”].) For example, the trial court may adopt the *proposed* statement of decision as the statement of decision by filing and serving an order to that effect or, as is common, by striking the word “proposed” from the lodged document and having the court clerk file and serve a file-stamped copy on the parties. (See, e.g., Cal. Rules of Court, rule 3.1590(c)(4).) Here, the trial court took no such action.

“If a statement of decision is [required], the trial court must render a statement of decision and it is reversible error if it does not do so. . . . Under those circumstances, the matter is remanded to the trial judge who originally presided over the trial to complete the process. If the trial judge who originally presided over the trial has become incapacitated or has died, no other judge can perform the task and the matter must be retried.” (*Karlsen v. Superior Court* (2006) 139 Cal.App.4th 1526, 1530–1531, citation & italics omitted.)

Because the trial court did not issue a statement of decision, the judgment is reversed, and the case is remanded so that a statement of decision may be issued.

### **DISPOSITION**

The judgment is reversed, and the case is remanded with directions that the trial court issue a statement of decision. The parties are to bear their own costs on appeal.

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MALLANO, P. J.

We concur:

ROTHSCHILD, J.

JOHNSON, J.