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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

RODOLFO CARDENAS,

Plaintiff and Appellant,

v.

FREMONT REORGANIZING
CORPORATION et al.,

Defendants and Respondents.

B221963

(Los Angeles County
Super. Ct. No. SC094212)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Joseph S. Biderman, Judge. Affirmed.

Rodolfo Cardenas, in pro. per., for Plaintiff and Appellant.

Gibbs, Giden, Locher, Turner & Senet, Jose L. Padilla, Jr. and Alexis M. Miller,
for Defendants and Respondents Signature Group Holdings, Inc., HSBC Bank USA N.A.
as Trustee for Asset Backed Certificates, Series 2006–FRE1; and Franklin Credit
Management Corporation.

Polk Law Offices and Christopher Polk, for Defendant and Respondent Emmanuel
Sawyerr.

Appellant Rodolfo Cardenas brought this action for among other things, quiet title, conversion and fraud, claiming that a grant deed transferring title to his family home, which he purportedly signed while in prison, was a forgery. Trial was bifurcated, and equitable claims were tried first. Cardenas represented himself at that trial, after which the court found the grant deed was valid and enforceable. Cardenas failed to appear at trial for the remaining claims, and judgment was entered against him. Cardenas claims he was denied due process when, among other things, the court permitted his attorney to withdraw, refused his requests for appointed counsel and special assistance, and allowed testimony by declaration. We affirm.

FACTUAL BACKGROUND

This lawsuit arises from claims related to the sale of a house in Culver City (the Property). Plaintiff and appellant Rodolfo Cardenas (Cardenas) claims his signature on the grant deed conveying the Property to defendant Global Real Estate Investor and Financial Services, Inc. (Global) was forged, and that title was never properly conveyed. Cardenas sought to quiet title and set aside the grant deed and two deeds of trust recorded in favor of defendant Fremont Reorganizing Corporation,¹ to secure two loans totaling \$900,000 made to respondent Sawyerr and defendant Yatunde Sawyerr in connection with Sawyerr's purchase of the Property from Global. Cardenas also alleged causes of

¹ Respondent Signature Group Holdings, Inc, is the successor in interest to defendants Fremont Reorganizing Corporation, formerly known as Fremont Investment and Loan, a California Corporation (Fremont), and Fremont's assignees, defendants and cross-complainants HSBC Bank USA N.A., as Trustee for Asset Backed Certificates, Series 2006-FRE1 (HSBC), and Franklin Credit Management Corporation (Franklin). Except where otherwise specified we will refer to these parties, collectively, as Fremont. As pertinent here, Fremont, Franklin and HSBC were named defendants only as to the first three causes of action in the operative second amended complaint (SAC) related to title to the Property, for quiet title, and declaratory and injunctive relief. Fremont was a defendant to the seventh and eighth causes of action for conversion and fraud, respectively, but the trial court sustained, without leave to amend, a demurrer to those claims. Emmanuel Sawyerr (Sawyerr) was a defendant as to the first two causes of action, and the claims for conversion and fraud.

action for malpractice, breach of contract, breach of fiduciary duty, fraud and conversion. The essence of these allegations was Cardenas's claim that he was defrauded out of his home, and that his prior attorney and numerous other defendants wrongly converted proceeds from the sale of the Property.

PROCEDURAL BACKGROUND

Cardenas, then represented by counsel, initiated this action in June 2007. The SAC alleges causes of action for (1) quiet title; (2) declaratory relief; (3) injunctive relief; (4) malpractice; (5) breach of contract; (6) breach of fiduciary duty; (7) conversion; and (8) fraud. Among the named defendants, only Sawyerr and Fremont's successor in interest are parties to this appeal.

Franklin and HSBC filed a cross-complaint (later amended as to allegations not pertinent here), seeking to quiet title against Cardenas, and seeking equitable indemnity, imposition of an equitable lien and declaratory relief against Cardenas and five other individuals and entities.

In October 2008, Fremont moved for summary judgment, asserting the evidence was undisputed that Cardenas had signed the documents authorizing a November 2005 sale of the Property. The trial court denied the motion in February 2009. The court found that Fremont's evidence was "overwhelming," and noted that Cardenas's opposing evidence was "paltry in comparison." Nevertheless, the court found that Cardenas had raised a triable issue of material fact by virtue of his claim that he never signed a grant deed or any pertinent escrow document.

In November 2008 the court set a final status conference (FSC) for July 17, 2009 and a trial date for July 27, 2009.

In mid-April 2009, the trial court granted a motion by Cardenas's attorney to withdraw on the ground that he was no longer able to "ethically represent" Cardenas.

On June 2, 2009, Cardenas, then incarcerated and appearing in pro. per., submitted the first of several ex parte communications to the trial court. In a June 19, 2009 minute order, the court advised the parties it had received Cardenas's June 2 letter asking the court to appoint counsel to represent him in this action, or to issue a removal order

transferring him to Los Angeles County jail for trial. The trial court informed Cardenas that it lacked the authority to grant his requests. The court also notified Cardenas that if he wished to seek a continuance of the trial or to make arrangements to appear at trial by video or “Courtcall,” he had to give notice to opposing counsel.

On July 2, 2009, the trial court granted Fremont’s motion to sever giving trial preference on the causes of action in the SAC for quiet title, and for declaratory and injunctive relief, and the cross-claim for quiet title (the equitable claims). The court also issued, and Cardenas was served with an order to show cause (OSC) regarding the status of Cardenas’s appearance for trial.

On July 10, 2009, the trial court issued another minute order notifying the parties it had received a letter from Cardenas, and was setting an OSC regarding the trial date following Cardenas’s ex parte communication regarding his incarceration on the date of the FSC on July 17, 2009. Cardenas was served with notice of that hearing.

Cardenas did not appear telephonically or otherwise on July 17, 2009. Instead, he sent a friend, who was not an attorney, to represent him. Respondents, who had arranged for trial witnesses to come from Central and Northern California, objected to continuing the trial date. They also noted that Cardenas had been aware, since April 2009 when his attorney had withdrawn, that he would be required to represent himself at trial. The trial court observed that it was obligated to make accommodations for an incarcerated proper litigant, and overruled respondents’ objections. The court set a bench trial on the equitable claims for August 31, 2009 to give Cardenas additional time to prepare.

On August 14, 2009, the trial court rejected Cardenas’s request to arrange for Courtcall or video conferencing for him or, in the alternative, to continue the trial date again. The request was denied because Cardenas’s request was made by an improper ex parte communication with the court. On August 25, 2009, the trial court directed the Department of Rehabilitation and Corrections to provide Cardenas with access to Courtcall to enable him to participate at trial.

A two-day bench trial of the equitable claims was conducted between August 31 and September 3, 2009. Cardenas appeared telephonically both days of trial. In a

statement of decision issued on October 6, 2009, the trial court found that Cardenas failed to meet his burden of proof on the equitable claims, and the grant deed was valid and enforceable.

A status conference was conducted following trial of the equitable claims. Trial on the remaining claims was set for October 26, 2009. Notice of the October 26 trial date was served on all parties on September 28, 2009.

Cardenas did not appear on October 26, 2009 for trial of the remaining claims; the trial proceeded in his absence. The court found that Cardenas had been properly notified of the trial. On defendants' motion, the court ordered that judgment be entered against Cardenas on the remaining causes of action. On December 2, 2009, judgment was entered against Cardenas on all causes of action in the SAC and on the cross-complaint.

On December 23, 2009, Cardenas provided the trial court a handwritten letter entitled "Notice of Appeal on Court Ruling," taking issue with the court's adverse decision as to the eight causes of action in the SAC. The court accepted the document, deemed it a formal notice of appeal. Notice was served on all parties.

DISCUSSION

1. Forfeiture of appellate arguments

Cardenas advances a host of undeveloped reasons why the judgment should be reversed. His fundamental assertions are that he never agreed to sell the Property, and he is the victim of fraud perpetrated by his former counsel and others. Now, Cardenas also claims he has been denied due process because the trial court allowed his attorney to withdraw from his representation before trial and refused Cardenas's requests for appointed counsel or other special judicial assistance. Further, the court permitted trial testimony to be presented by declaration rather than requiring defendants' witnesses to appear for cross-examination. We reject Cardenas's assertions for the following reasons.

First, Cardenas's scattered arguments are largely premised on irrelevant information, undeveloped and, for the most part, unintelligible. "An appellate court is not required to examine undeveloped claims, nor to make arguments for parties."

(*Paterno v. State of California* (1999) 74 Cal.App.4th 68, 106.) We recognize that

Cardenas represents himself on appeal, as he did at trial, a circumstance for which he sought—but was denied—special dispensations or assistance from the trial court. The court’s refusal to provide special treatment was appropriate. The general principle is well established: Pro. per. litigants are treated no differently than attorneys. (*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 985 [“A doctrine generally requiring or permitting exceptional treatment of parties who represent themselves would lead to a quagmire in the trial courts, and would be unfair to the other parties to litigation”]; (*Kobayashi v. Superior Court* (2009) 175 Cal.App.4th 536, 543 [“Pro. per. litigants are held to the same standards as attorneys”].) The same principle governs the prosecution of an appeal. The rules of court governing the form and content of appellate briefs are mandatory and strictly enforced. A party’s failure to adhere to those rules may be disastrous for his appeal. There is no leeway for self-represented parties. Such a party is “‘treated like any other party and is entitled to the same, but no greater consideration than other litigants and attorneys. [Citation.]’ [Citation.] Thus, as is the case with attorneys, pro. per. litigants must follow correct rules of procedure.” (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1247; *Stebly v. Litton Loan Servicing, LLP* (2011) 202 Cal.App.4th 522, 524 [“Although plaintiffs appear in this court without counsel, that does not entitle them to special treatment”].)

Second, to the extent we are able to understand Cardenas’s arguments, they are, in essence, a challenge to the sufficiency of the evidence to support the judgment based on purported title defects and an allegedly sketchy evidentiary record. Cardenas also claims he was denied due process in that (1) his retained counsel was allowed to withdraw weeks before trial, (2) he was purportedly denied meaningful access to the courts, (3) the court allowed copies to be used rather than original documents as exhibits, and (4) he was denied a jury trial. Cardenas also complains, for the first time on appeal, that the trial court permitted defendants’ evidence to be admitted at trial by declaration in lieu of testimony. In his lengthy discourse on these issues, however, Cardenas utterly fails to cite any portion of the record that would allow meaningful evaluation of his claims.

Rule 8.204 of the California Rules of Court (Rule 8.204) provides:

“(a) Contents.

“(1) Each brief must: [¶] . . . [¶]

“(C) Support any reference to a matter in the record by a citation to the record.”

This rule requires a party on appeal to provide record citations to support all factual matters wherever they appear in a brief. (*City of Lincoln v. Barringer* (2002) 102 Cal.App.4th 1211, 1239, fn. 16.) “Statements of fact that are not supported by references to the record are disregarded by the reviewing court.” (*McOwen v. Grossman* (2007) 153 Cal.App.4th 937, 947; Rule 8.204(a)(1)(C); *Duarte v. Chino Community Hospital* (1999) 72 Cal.App.4th 849, 856.) Cardenas’s 19-page opening brief blatantly violates Rule 8.204; the opening brief does not contain a single record citation to support the many factual matters asserted therein. Cardenas’s reply brief fares no better. That 21-page brief contains a total of three record citations, two of which cite only generally to witness testimony, and one of which does not relate to the factual contention it purports to support.

We excuse occasional failures to cite to the record. But Cardenas’s failures are complete and make it impossible for us to evaluate the merits of his case without conducting a complete independent review of the record, which we decline to undertake. Cardenas’s egregious failure to cite to the record to support the vague factual assertions in his brief constitutes forfeiture of the arguments therein, which will not be considered on the merits. (*City of Lincoln v. Barringer, supra*, 102 Cal.App.4th at p. 1239; *McOwen v. Grossman, supra*, 153 Cal.App.4th at p. 947; *Schubert v. Reynolds* (2002) 95 Cal.App.4th 100, 109.)

Third, Cardenas’s opening brief contains a single legal citation to *Payne v. Superior Court* (1976) 17 Cal.3d 908 (*Payne*). As to that authority, Cardenas makes no

attempt to explain its relevance or how it supports his legal assertions.² “When an appellant fails to raise a point, or asserts it but fails to support it with reasoned argument and citations to authority, we treat the point as waived.” (*Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784–785; see also Cal. Rules of Court, rule 8.204(a) [brief must support each point by argument and, if possible, citation of authority]; *Magan v. County of Kings* (2002) 105 Cal.App.4th 468, 477, fn. 4 [waiver resulting from failure to cite legal authority].)

Fourth, even if found the trial court erred in some respect, we would not reverse. An appellant may not obtain a reversal simply by pointing out legal error. He must, in every instance, “show that the claimed error is prejudicial; i.e., that it has resulted in a miscarriage of justice.” (*In re Marriage of McLaughlin* (2000) 82 Cal.App.4th 327, 337.) Here, Cardenas has failed completely to show how any purported error he alleges has caused him prejudice. Absent such an argument, we presume any error was harmless.

2. *Substantial evidence supports the judgment*

Even if we were to reach the issues Cardenas raises, we would conclude the record does not support his position because the record contains substantial evidence to support the judgment.

² Cardenas cites *Payne*, *supra*, 17 Cal.3d 908 for the proposition that the trial court erred when it allowed his attorney to withdraw. *Payne* is inapposite and does not address the propriety of an order allowing private counsel who represented plaintiff and initiated the action prior to plaintiff’s incarceration, to withdraw from representation in a pending case (especially where, as here, the attorney declares he can no longer “ethically represent” his client). Rather, *Payne* provides that where an indigent prisoner is a *defendant* in an action affecting his property rights, the court must consider whether it is necessary to exercise its discretion to appoint counsel in order to provide the prisoner meaningful access to the courts and to protect the prisoner from malicious lawsuits affecting his property rights while incarcerated. (*Id.* at p. 924.)

The following evidence was presented at trial:

Susanna Flores, notary public

On November 3, 2005, Flores, a notary public, met Cardenas in prison and acknowledged his signature on a grant deed. She verified Cardenas's identity and told him she was providing him a grant deed and her Notary Journal, among other things, to sign. Cardenas knew what he signed and did so voluntarily. Flores witnessed Cardenas sign the grant deed and her notary journal, and saw him place his thumb print in her journal.

Lisa Zinani, notary

On December 9, 2005, Lisa Zinani, a notary and government program analyst at Corcoran, notarized Cardenas's signature on an "Amendment to Escrow Instructions." Cardenas understood what he was signing. Initially Cardenas was reluctant to sign the document, but he voluntarily did so after discussing the matter with his attorney. Cardenas signed Zinani's notary journal, and affixed his thumbprint thereto. After witnessing Cardenas sign the document and her journal, Zinani, signed her journal and affixed her notary stamp to the document.

James A. Blanco, expert witness

James Blanco is a qualified examiner of questioned documents with extensive experience. He examined several specimens of Cardenas's signature, the authenticity of which was undisputed. Based on that review, Blanco opined that it was a "virtual certainty" that Cardenas signed the Global Grant Deed, the Amendment to Escrow, Flores's and Zinani's notary journals, and other escrow documents and checks.

Martin Collins, fingerprint examiner

Martin Collins has extensive experience as a latent fingerprint examiner. Based on undisputed specimens of Cardenas's fingerprints, Collins opined that the thumb print in Flores's notary journal acknowledging the grant deed was Cardenas's print.

Melonee Lee Ellis, Crestwood Escrow

Pursuant to the Amendment to Escrow, Melonee Lee Ellis caused to be issued, from proceeds of the sale of the Property by Cardenas to Global, a check from Crestwood Escrow for \$387,347.48 payable to Cardenas.

Emmanuel Sawyerr

Sawyerr purchased the Property from Global for over \$900,000. When Sawyerr bought the Property he had no actual or constructive knowledge that Cardenas had any claim in or to the Property. Sawyerr borrowed \$900,000 from Fremont to purchase the Property. He executed two notes and deeds of trust on the Property for Fremont's benefit.³ Global conveyed fee title to the Property to Sawyerr by way of a grant deed recorded on December 2, 2005.

Cardenas did not object to the fact that any of this evidence was introduced by way of declaration, rather than live testimony. The trial court found this evidence credible, and rejected Cardenas's contentions that he was a victim of forgery or fraud. The court concluded Cardenas signed the grant deed knowingly and voluntarily, and the deed conveying fee title to the Property was valid and enforceable. Ample evidence supports that conclusion.

³ The first note for \$720,000 was secured by a first deed of trust encumbering the Property and recorded on December 2, 2005. The second note for \$180,000 was secured by a second deed of trust and recorded the same day.

DISPOSITION

The judgment is affirmed.
NOT TO BE PUBLISHED.

JOHNSON, J.

We concur:

ROTHSCHILD, Acting P. J.

CHANEY, J.