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IN THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

Estate of YANG HUA XI, Deceased.

BUWEI SHI XI,

Petitioner and Appellant,

v.

GONG HUA XI,

Objector and Respondent.

B286213

(Los Angeles County
Super. Ct. No. BP150625)

APPEAL from an order of the Superior Court of Los Angeles County, Clifford L. Klein, Judge. Affirmed.

Ritt, Tai, Thvedt & Hodges and Warren O. Hodges, Jr.; Kathryn M. Stanton for Petitioner and Appellant.

LTL Attorneys, James M. Lee, Alexander H. Hu, Timothy S. Fox and Blake Guerrero for Objector and Respondent.

INTRODUCTION

Appellant Buwei Shi Xi (“Buwei”) and Yang Hua Xi (“Yang Hua”) were legally married from 1988 to 2011, when Yang Hua died intestate. In 1985, three years before they were legally married, Yang Hua purchased the Hollywood Premiere Motel (the “Motel”), taking title as “a single man.” Under California’s laws of intestate succession, if the Motel were community property, Buwei would inherit all of Yang Hua’s ownership interest in the Motel. (Prob. Code, § 6401, subd. (a).) If the Motel were separate property, Buwei would inherit 50 percent of Yang Hua’s ownership interest in the Motel, and Yang Hua’s father, Yu Lin Xi (“Father”), would inherit the other 50 percent.¹ (Prob. Code, §§ 6401, subd. (c)(2)(B), 6402, subd. (b).) As of April 30, 2012, the Motel was appraised for \$3,300,000.

On June 3, 2014, Buwei filed a spousal property petition (the “Petition”), asking the court to determine that although Yang Hua took title to the Motel as “a single man,” the Motel was really community property, because Buwei was Yang Hua’s putative spouse at the time of the purchase (i.e., she had a good faith belief that she and Yang Hua were married in 1985, even though they were not legally married until 1988).

Gong Hua Xi (Yang Hua’s brother) objected to the Petition, claiming that Buwei was not Yang Hua’s putative spouse. After holding a trial on the matter, the trial court

¹ Yang Hua’s mother was deceased at the time of trial.

denied the Petition on the ground that Buwei failed to meet her burden to demonstrate she was a putative spouse at the time the Motel was purchased.²

On appeal, Buwei contends: (1) Gong Hua lacked standing to object to the Petition; (2) the trial court used an incorrect standard to determine whether Buwei was Yang Hua's putative spouse; and (3) substantial evidence failed to support the trial court's finding that Buwei was not a putative spouse. We affirm.

STATEMENT OF RELEVANT FACTS

A. The "Putative" Marriage

Buwei testified to her background and the circumstances surrounding her marriage. She was born in Shanghai, China in 1949 and lived there until 1984. She came from a relatively wealthy family and had educated friends. Buwei herself completed at least one year of high

² Buwei also asked the trial court to deem as community property a condominium purchased in 2003 by Yang Hua, who took title as "a Married Man as his Sole and Separate Property." Buwei had quitclaimed her interest in that condominium to Yang Hua when purchased, but asked the court to set aside the quitclaim deed because of undue influence. At the time of Yang Hua's purchase, Buwei purchased an identical condominium, taking title as "a Married Woman as her Sole and Separate Property." Yang Hua quitclaimed his interest in that condominium to Buwei. The court ruled against Buwei on her request, and she does not challenge that ruling on appeal.

school, took some accounting courses, and worked in an accounting department at a factory.³

Buwei and Yang Hua met in 1981. After a typical courtship, the couple became engaged in 1982. Around that time, Yang Hua was about to graduate from college, and had an opportunity to emigrate to the United States. They decided that Yang Hua would go to the United States first, and Buwei would follow. Believing that obtaining visas to come to the United States would be more complicated if they were already married, they decided not to get married until they were both in the United States.

Yang Hua left for the United States on March 5, 1983. Buwei arrived 16 months later, on July 13, 1984.

Buwei testified that when she arrived in Los Angeles on July 13, 1984, Yang Hua picked her up at the airport, took her back to the motel at which he was working and living, put a ring on her finger, and told her they were married. Surprised, Buwei asked whether Yang Hua had arranged everything, and he answered that he had processed everything.⁴ Buwei asked nothing else.

³ While Buwei testified she had completed only one year of high school, on her Certificate of Registry of Marriage, she stated she had completed the 12th grade. She also listed her occupation as "Accounting."

⁴ The interpreter noted that "processed everything" could also have been translated as "did everything" or "completed everything."

Buwei understood that in Shanghai, where marriage was common, people would be required to complete some paperwork and procedures to get a marriage certificate. While Buwei testified she did not know how to do these things, she did not claim to be unaware of the requirements. Buwei further testified that in Shanghai, it was unacceptable for a man and woman to cohabit without being married. She testified that she expected she would live in a separate room from Yang Hua until they were married.

B. Holding Themselves Out as Married

Two friends of Buwei testified that in 1984, they received letters from her, stating she had gotten married.⁵ One of those friends and a third friend testified that before 1988, they visited Buwei and Yang Hua at the motel where they lived and worked, and either were told the two had married, or assumed they were married, based on their cohabitation. One friend further testified he would not have stayed at the motel with Buwei and Yang Hua had the two been unmarried, and it was his understanding that cohabitation before marriage was unacceptable and illegal in China. However, the two other friends both testified that had they discovered Buwei and Yang Hua were cohabitating while unmarried, they would not have cared, and would have remained friends with her. Buwei's expert in Chinese

⁵ No letters were introduced. One friend testified she no longer had the letter.

culture acknowledged that cohabitation before marriage occurred in China, even when it was against the law.

C. The Purchase of the Hollywood Motel

On December 10, 1985, Yang Hua purchased the Hollywood Premiere Motel. Title to the Motel was taken in the name of “YANG HUA XI, a single man.” Buwei testified that she was unaware at the time that this was how title was taken. She also testified that some of the down payment for the Motel consisted of money she had brought from China, as well as proceeds from sales of paintings she had brought over.

D. The Legal Marriage

Buwei testified it was not until 1987, when an immigration attorney told Buwei and Yang Hua they were missing a marriage license, that she understood a marriage required a license in the United States. On February 18, 1988, she and Yang Hua had a wedding in a church, with a wedding dress, tuxedo, and a pastor, and thereafter obtained a marriage certificate. Yang Hua’s family attended this wedding, as did the couple’s former boss.

After the legal marriage, title to future properties purchased in the United States by Buwei and Yang Hua reflected the fact of their marriage. In 1995, they purchased the Huntington Motel, and took title as “YANGHUA XI and BU-WEI XI, husband and wife, as Joint Tenants.” In 1997, they purchased the Winchester Apartments, taking title as

“YANG HUA XI AND BU WEI XI, HUSBAND AND WIFE AS JOINT TENANTS.” And, as noted, in 2003, they purchased two condominiums. One was taken in the name of “YANG HUA XI, a Married Man as his Sole and Separate Property” and the other was taken in the name of “BU WEI S. XI, a Married Woman as her Sole and Separate Property.”

Prior to the legal marriage, there was no property purchased as husband and wife.

E. Court Proceedings

After Yang Hua’s death in November 2011, Buwei and Yang Hua’s family were involved in litigation in China over disposition of real property owned by Yang Hua there. Among other things, the Chinese court found that Buwei and Yang Hua were married on February 18, 1988, a finding Buwei did not dispute in the Chinese litigation.

On March 26, 2014, Gong Hua petitioned the Los Angeles Superior Court to be named the administrator of Yang Hua’s estate. Father also nominated Gong Hua to be administrator, as did Yang Hua’s mother.

On April 23, 2014, Buwei objected to Gong Hua’s petition, and submitted her own petition to administer Yang Hua’s estate.

On June 3, 2014, Buwei filed a Spousal Property Petition, asking, among other things, that the Motel be deemed community property. Gong Hua opposed the Petition, and Buwei replied to the opposition.

On April 15, 2016, Buwei and Gong Hua stipulated to Buwei's appointment as administrator of Yang Hua's estate. On August 3, 2016, the trial court ordered Buwei to be appointed administrator of Yang Hua's estate. Trial for Buwei's Petition was set for March 13, 2017.

On March 6, 2017, the parties filed a Joint Trial Statement. The caption of the Joint Trial Statement lists Gong Hua as "Respondent." Under the heading of "Names, ages, relationships, of all persons relevant to the proceedings, and names of counsel," the parties listed Gong Hua as "brother of decedent and family representative in this action on behalf of [father] Yu Lin Xi" The same document also listed "Yu Lin Xi, age 95" and stated that "Mr. Xi currently resides in China and due to his age is unable to travel."

Trial on the Petition was held on March 13, 14, and 15, 2017, and concluded on May 16, 2017. Both sides filed posttrial briefs. In Buwei's posttrial brief, she stated that should her Petition be denied, Yang Hua's interest in the Motel "will go to [Yang Hua's] 90+ year-old and infirm father . . . and, upon his death, to [Yang Hua's] siblings" Buwei also argued, for the first time, that Gong Hua lacked standing to oppose the Petition.⁶

⁶ Buwei claims on appeal that she raised the standing issue "at the commencement of trial," but the record reflects only that Buwei's counsel asked about "which party it is that the Respondent represents." Buwei's counsel neither used the word (*Fn. is continued on the next page.*)

On July 21, 2017, the parties made oral closing arguments to the court. Prior to oral argument, the trial court, on its own motion, appointed Gong Hua as guardian ad litem for Father.

On August 11, 2017, the trial court issued a proposed statement of decision. In it, the trial court stated that “This tentative decision will be the statement of decision unless within 15 days a party specifies controverted issues or makes proposals not covered in the tentative decision.” Gong Hua proposed certain modifications, but the record reflects no such proposals or objections from Buwei.

F. The Trial Court’s Statement of Decision

The trial court issued its final decision on September 7, 2017, finding that Buwei had failed to meet her burden of proving she was a putative spouse as of 1985, when Yang Hua purchased the Motel as “a single man.” Citing the California Supreme Court’s decision in *Ceja v. Rudolph & Sletten, Inc.* (2013) 56 Cal.4th 1113, the court stated: “The putative spouse must subjectively believe in good faith that the marriage was a lawful California marriage. Objective reasonableness is not required.” In noting the factors appropriately taken into account in assessing the alleged putative spouse’s good faith belief, the court observed: “Solemnization is a significant factor to be considered in

“standing” nor suggested that Buwei questioned Gong Hua’s standing to object to her Petition and present evidence at trial.

evaluating good faith and the totality of the circumstances to evaluate whether the alleged putative spouse's belief was genuinely held, including: (1) efforts made to create a valid marriage; (2) the alleged putative spouse's personal background and experience; (3) all the circumstances surrounding the marriage; and (4) [t]he reasonableness or unreasonableness of the alleged putative spouse's belief in the face of objective circumstances pointing to a marriage's invalidity."

Characterizing the case as one posing questions of "fact and credibility," the court concluded Buwei had failed to meet her burden of proof. Among other factors, the court noted that Buwei had lived in Shanghai and was more educated than others who lived in rural areas; that she was from an upper middle-class family; that she was intelligent, had educated friends, and was trained in accounting; that she had obtained a student visa in order to emigrate to the United States to attend a school in rural New York, and was sufficiently familiar with American immigration laws to believe it would be easier to emigrate if she were not married. The court noted that Buwei knew the legal requirements for marriage in China required the presence of both parties to the marriage and documentation, and that she had neither when Yang Hua allegedly told her they were married in 1984. The court found it was not reasonable for Buwei to believe then or thereafter, until her actual wedding, that she was married. The court observed that Buwei's wedding in 1988 was a traditional one involving a

ceremony and a reception. The court further observed the absence of documentation, including bank accounts or property records, showing Buwei and Yang Hua as married before 1988, in contrast to those after 1988, describing their status as married. Addressing evidence that Buwei had held herself out as married, the court considered the possibility that prior to her actual wedding, Buwei might have chosen to “misrepresent her actual marital status,” owing to “the strong moral objections of her family, closest friends, and Chinese society” to cohabitation before marriage.

Buwei filed a timely notice of appeal.

DISCUSSION

A. Respondent Had Standing to Object to Buwei’s Spousal Petition

Despite Buwei’s protestation to the contrary, she raised no issues regarding Gong Hua’s standing until her posttrial brief. In response to her argument that he lacked standing, the trial court, on its own motion, appointed Gong Hua as guardian ad litem for Father, who indisputably had standing to challenge Buwei’s Petition. (Prob. Code, §§ 1043, subd. (a), 48, subd. (a).)

On appeal, Buwei argues: (1) that Gong Hua lacked standing to oppose her Petition, because he was not entitled to share in Yang Hua’s intestate estate, and (2) that there was no legal or factual basis for the trial court to appoint Gong Hua as guardian ad litem for Father. As discussed

below, we conclude that Gong Hua had standing to challenge the Petition as an “interested person,” and, additionally, that the Court’s appointment of Gong Hua as guardian ad litem for Father was supported both legally and factually.

B. Gong Hua Had Standing as an Interested Person

Gong Hua was an “interested person” and therefore had standing to object to Buwei’s Petition. “An interested person may appear and make a response or objection in writing at or before the hearing.” (Prob. Code, § 1043, subd. (a).) An “interested person” includes “[a]n heir, devisee, child, spouse, creditor, beneficiary, and any other person having a property right in or claim against a trust estate or the estate of a decedent which may be affected by the proceeding.” (Prob. Code, § 48, subd. (a)(1).) Further, “[t]he meaning of ‘interested person’ as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding.” (Prob. Code, § 48, subd. (b).)

By permitting Gong Hua to present evidence at trial prior to appointing him guardian ad litem, the Court impliedly found that Gong Hua had standing to do so. (See, e.g., *Holloway v. Showcase Realty Agents, Inc.* (2018) 22 Cal.App.5th 758, 768 “[b]y reaching the merits [of a case, the] . . . court impliedly found that plaintiffs had standing to assert their claim”].) A determination of standing is

reviewed for abuse of discretion. (*Arman v. Bank of America* (1999) 74 Cal.App.4th 697, 702.)

We find no abuse of discretion in the court's implicit finding that Gong Hua was an "interested person" within the meaning of Probate Code section 48. As Buwei acknowledged, Gong Hua had a contingent interest in Yang Hua's estate which "may" have been affected by the proceeding. As she argued in her posttrial brief, if Buwei were found not to be a putative spouse, 50 percent of the Motel "will go to Yanghua's 90+ year-old and infirm father . . . and, upon his death, to Yanghua's siblings" (of which Gong Hua was one). Gong Hua's interest was thus both evident and acknowledged.

Relying principally on *Lickter v. Lickter* (2010) 189 Cal.App.4th 712 (*Lickter*), an elder abuse case, Buwei now argues that Gong Hua was not an "interested person" because at the time of the trial on the Petition, Gong Hua had no direct interest in Yang Hua's estate. Buwei interprets *Lickter* too narrowly. In *Lickter*, plaintiffs' standing to bring an elder abuse claim on behalf of their deceased grandmother turned on whether plaintiffs were "interested persons" under Probate Code section 48. (*Lickter, supra*, at p. 716.) In finding that plaintiffs were not "interested persons," the Court of Appeal stated that an "interested person" was one with a "property right in or claim against a trust estate or the estate of a decedent which may be affected by th[at] proceeding." (*Id.* at pp. 729, 732.) The question before the *Lickter* Court was whether "a

‘beneficiary’ of a trust [was] an ‘interested person’ under . . . subdivision (a)(1) of Probate Code section 48 if the elder abuse action the person seeks to commence or maintain will have no effect on the person’s beneficial interest in the trust[.]” (*Lickter, supra*, at p. 725.) The Court of Appeal held that such a beneficiary was not an interested person, because the elder abuse claim would have no effect on that beneficiary’s interest in the trust. (*Id.* at p. 729.)⁷ But the court further defined the relevant question as “whether the person -- whether an heir, devisee, beneficiary, or other person -- has an interest *of some sort* that may be impaired, defeated, or benefited by the proceeding at issue.” (*Id.* at p. 728, italics added.) This broader formulation -- requiring only an interest of “some sort” in the estate -- is consistent with other cases ignored by Buwei.

In *Estate of Prindle* (2009) 173 Cal.App.4th 119, the Court of Appeal affirmed the trial court’s decision that an insurance company was an “‘interested person’” for purposes of a probate proceeding, because the insurance company’s liability in a related case “‘may’” have been affected by the outcome of that probate proceeding. (*Id.* at pp. 126-127.) There was no suggestion that at the time the insurance

⁷ The appellate court further noted that, because plaintiffs had already been paid all they were entitled to under the decedent’s trust, “they were no longer even ‘beneficiaries’ of the trust because they no longer had any present or future interest in the trust -- only a past interest that was already satisfied.” (*Lickter, supra*, 189 Cal.App.4th at p. 730.)

company sought to object to the probate proceeding, it had a direct property right in, or claim against, the decedent's estate. It was sufficient that the company had "an interest of some sort that may be impaired, defeated, or benefited by the proceeding at issue." (*Lickter, supra*, 189 Cal.App.4th at p. 728; see also *Estate of Davis* (1990) 219 Cal.App.3d 663, 669 ["the trial court found that because the surety would be required to pay on the bond if Marilyn were held liable, it was in the surety's interest to make certain Marilyn's side of the case was adequately represented. This interest was sufficient to qualify the surety as an interested person"]; *Estate of Maniscalco* (1992) 9 Cal.App.4th 520, 524 [party that had intended to overbid at a confirmation hearing for the purchase of a decedent's estate's real property had standing as "interested person" to move the court to vacate the confirmation order].) Here, Gong Hua had a clear interest that might have been impaired, defeated, or benefited by the resolution of Buwei's Petition. As Buwei repeatedly recognized, Gong Hua stood to inherit at least part of Father's portion of the Motel, should the Petition be denied.

Buwei's other cases are inapposite, as they involved parties who lacked either a direct or indirect interest in the outcome of the proceedings. (See *Arman v. Bank of America, supra*, 74 Cal.App.4th at pp. 701-703, 704 [affirming that appellant, whose deceased mother had been named trustee in decedent's will for a charitable trust to be created from decedent's estate, was not an "interested person" for

purposes of petitioning court to appoint successor trustee, because appellant “had no more interest in the trust proceeds than anyone else acquainted with [the decedent] and familiar with his interests”]; *Estate of Sobol* (2014) 225 Cal.App.4th 771, 782 [affirming decedent’s nephew lacked standing because he “acknowledged he has ‘no direct or [in]direct interest in the outcome of this matter’ and did ‘not stand to inherit one iota of any asset in any outcome’ in the present litigation”]; *Tepper v. Wilkins* (2017) 10 Cal.App.5th 1198, 1206 [even assuming Probate Code section 48 applies to elder abuses cases where the elder is still alive, appellant was not an interested person when she claimed no interest in her mother’s revocable living trust].) In short, the trial court did not abuse its discretion in impliedly finding that, as an “interested person,” Gong Hua had standing to object to Buwei’s Petition, and present evidence at the trial thereon.

C. The Trial Court Properly Appointed Gong Hua Guardian ad Litem

Independent of his status as an interested party, we conclude the trial court properly recognized Gong Hua as guardian ad litem for Father. Probate Code section 1003 provides a legal basis for the trial court to appoint Gong Hua guardian ad litem. This section provides that “[t]he court may, on its own motion . . . appoint a guardian ad litem at any stage of a proceeding under this code to represent the interest of any of the following persons, if the court

determines that representation of the interest otherwise would be inadequate:[¶] . . . (2) [a]n incapacitated person.” (Prob. Code, § 1003, subd. (a).) As noted, after reviewing Buwei’s posttrial brief, the trial court appointed Gong Hua to be Father’s guardian ad litem due to Father’s incapacity. On appeal, Buwei argues for the first time that there is no evidence Father was an “incapacitated person.”⁸

“Incapacitated person” is not defined by Probate Code section 1003. Black’s Law Dictionary defines “Incapacitated Person” as “Someone who is impaired by an intoxicant, by mental illness or deficiency, or by physical illness or disability to the extent that personal decision-making is impossible.” (Black’s Law Dict. (11th ed. 2019) p. 1834.) On this record, substantial evidence supports the trial court’s finding that Father was an incapacitated person.

“When a trial court’s factual determination is attacked on the ground that there is no substantial evidence to sustain it, the power of an appellate court *begins* and *ends* with the determination as to whether, *on the entire record*, there is substantial evidence, contradicted or

⁸ Buwei also argues that the trial court “took liberties with the statute permitting appointment of a guardian ad litem” and asks us to review the trial court’s interpretation of the statute on a de novo basis. Buwei does not specify what “liberties” the trial court allegedly took. Accordingly, she has forfeited the contention. (See *Kelly v. CB&I Constructors, Inc.* (2009) 179 Cal.App.4th 442, 452 [appellate court has discretion to disregard issue not properly addressed in appellant’s briefs, effectively treating issue as having been abandoned].)

uncontradicted, which will support the determination” (*Bowers v. Bernards* (1984) 150 Cal.App.3d 870, 873-874.) Further, “[w]hen two or more inferences can reasonably be deduced from the facts, a reviewing court is without power to substitute its deductions for those of the trial court.” (*Green Trees Enterprises, Inc. v. Palm Springs Alpine Estates, Inc.* (1967) 66 Cal.2d 782, 784-785.) In the parties’ Joint Trial Statement, Buwei acknowledged that Father was “age 95 . . . resides in China and due to his age is unable to travel.” Moreover, in Buwei’s posttrial brief, she referred to Father as “90+ year-old and infirm” The trial court reasonably could have inferred from these admissions that Father was an incapacitated person.⁹

***D. The Court Used the Correct Standard in
Deciding Buwei’s Putative Spouse Claim***

Buwei argues the trial court incorrectly used an objectively reasonable standard to determine whether she

⁹ Even had we not found that Gong Hua had standing both as an “interested person” and as Father’s guardian ad litem, we would find Buwei estopped from challenging Gong Hua’s standing, because until her posttrial brief, she treated Gong Hua as a proper party, entering into a stipulation with him, representing to the trial court that he was the “family representative,” and insisting he was a “party witness.” (See *People v. Dees* (1990) 221 Cal.App.3d 588, 597-598 [prosecution estopped to challenge defendant’s standing to assert suppression motion based on facts relied upon by prosecution to show drug possession].)

was a putative spouse. The record belies her claim. In its statement of decision, the trial court found that “[t]o qualify as a putative spouse, the claimant has the burden of proof to show that he or she believed in good faith that the marriage was valid under California law and this belief must be subjectively reasonable.” The trial court went on to state that “[t]he putative spouse must subjectively believe in good faith that the marriage was a lawful California marriage. Objective reasonableness is not required.”

“Subjectively reasonable” has been defined by various courts as a belief that the person actually holds. (See, e.g., *People v. Benson* (1990) 52 Cal.3d 754, 780 [something is “subjective” as opposed to “objective” if it is “in accordance with the suspect’s actual understanding”]; *United States v. Charette* (9th Cir. 2018) 893 F.3d 1169, 1175, 1176 [“subjectively reasonable” standard “requires only a subjective belief in the need to protect oneself or others,’ as opposed to an ‘objectively reasonable belief”]; *State v. Harden* (2009) 223 W.Va. 796, 803 [“a defendant’s belief that death or serious bodily injury was imminent must be shown to have been subjectively reasonable, which is to say that a defendant actually believed, based upon all the circumstances perceived by him or her at the time deadly force was used, that such force was necessary to prevent death or serious bodily injury”].)

Put another way, the standard articulated by the trial court required Buwei to show that her alleged good faith belief that she was validly married to Yang Hua as of 1985

was one she actually held.¹⁰ This is especially evident from the trial court’s reiteration that “[t]he putative spouse must subjectively believe in good faith that the marriage was a lawful California marriage. Objective reasonableness is not required.” Further, while the trial court also evaluated whether Buwei’s stated belief was objectively reasonable, our Supreme Court has made clear that “the reasonableness of the claimed belief is a factor properly considered along with all other circumstances in assessing the genuineness of that belief.” (*Ceja v. Rudolph & Sletten, Inc.*, *supra*, 56 Cal.4th at p. 1116.)¹¹

E. Buwei’s “Substantial Evidence” Challenge Fails

Buwei next argues “there was no substantial evidence to support the Decision denying Mrs. Xi’s Petition.” As

¹⁰ Buwei’s counsel himself characterized “[t]he ultimate question” in the case as whether Buwei’s belief that she was married in 1984 was “reasonabl[y] subjectively held by her.”

¹¹ Buwei argues that despite what is expressly stated in the statement of decision, the trial court used an objective reasonableness standard, because the proposed statement of decision mistakenly stated that Buwei’s belief “must be objectively reasonable.” However, a “tentative decision . . . may not be used to impugn subsequent findings or the judgment.” (*United Pacific Ins. Co. v. Hanover Ins. Co.* (1990) 217 Cal.App.3d 925, 934.) Moreover, even in the proposed statement of decision, the court expressly recognized that “[o]bjective reasonableness is not required.”

explained below, this argument is forfeited and, in any event, fails.

F. Buwei Forfeited a Substantial Evidence Challenge

Preliminarily, Buwei forfeits this argument by failing to summarize all the evidence, instead ignoring evidence favorable to Gong Hua. “A party who challenges the sufficiency of the evidence to support a finding must set forth, discuss, and analyze all the evidence on that point, both favorable and unfavorable [¶] . . . Because plaintiff has failed in his obligations concerning the discussion and analysis of a substantial evidence issue, we deem the issue waived.” (*Doe v. Roman Catholic Archbishop of Cashel & Emly* (2009) 177 Cal.App.4th 209, 218; see also *Huong Que, Inc. v. Luu* (2007) 150 Cal.App.4th 400, 409-410 [“[a]n appellate court will consider the sufficiency of the evidence to support a given finding only after a party tenders such an issue together with a fair summary of the evidence bearing on the challenged finding, particularly including evidence that arguably *supports* it”].) Having failed to meet this obligation, Buwei has forfeited the contention.

G. The Evidence Did Not Compel a Decision in Buwei’s Favor

Even in the absence of forfeiture, we would reject Buwei’s argument. We note initially that the issue here is not whether substantial evidence supported the court’s

finding. Both parties agree that Buwei had the burden of proof to demonstrate she was a putative spouse. The court found she did not meet that burden. In such a circumstance, the question for the reviewing court is whether Buwei's evidence was (1) uncontradicted and unimpeached and (2) of such a character and weight as to leave no room for a judicial determination that it was insufficient to support a finding of putative spouse. As articulated in *Sonic Manufacturing Technologies, Inc. v. AAE Systems, Inc.* (2011) 196 Cal.App.4th 456, 465-466:

“In the case where the trier of fact has expressly or implicitly concluded that the party with the burden of proof did not carry the burden and that party appeals, it is misleading to characterize the failure-of-proof issue as whether substantial evidence supports the judgment. This follows because such a characterization is conceptually one that allows an attack on (1) the evidence supporting the party who had no burden of proof, and (2) the trier of fact's unassailable conclusion that the party with the burden did not prove one or more elements of the case (*Oldenburg v. Sears, Roebuck & Co.* (1957) 152 Cal.App.2d 733, 742 [314 P.2d 33] [trier of fact is the exclusive judge of the credibility of the evidence and can reject evidence as unworthy of credence]; *Hicks v. Reis* (1943) 21 Cal.2d 654, 659-660 [134 P.2d 788] [trial court is entitled to reject in toto the testimony of a witness, even if that testimony is uncontradicted]).

“Thus, where the issue on appeal turns on a failure of proof at trial, the question for a reviewing court becomes whether the evidence compels a finding in favor of the appellant as a matter of law. [Citations.] Specifically, the question becomes whether the appellant’s evidence was (1) “uncontradicted and unimpeached” and (2) “of such a character and weight as to leave no room for a judicial determination that it was insufficient to support a finding.” (*In re I.W.* (2009) 180 Cal.App.4th 1517, 1527-1528 [103 Cal.Rptr.3d 538].)”

Here, Buwei’s evidence was both contradicted and impeached, and left room for a judicial determination that it was insufficient to demonstrate she was a putative spouse. For example, Buwei testified that, in 1984, she did not know that a certificate was necessary to legitimate a marriage in the United States. But Buwei also testified she knew such a certificate would be required in Shanghai, and there was evidence she was an intelligent and educated person. The trial court could reasonably have inferred that Buwei also would have known that such a license was required in the United States. “When two or more inferences can reasonably be deduced from the facts, a reviewing court is without power to substitute its deductions for those of the trial court.” (*Green Trees Enterprises, Inc. v. Palm Springs Alpine Estates, Inc.*, *supra*, 66 Cal.2d at 784-785.)

Buwei and several witnesses on her behalf testified she never would have lived with Yang Hua before marriage, because premarital cohabitation was illegal and taboo in

Chinese society at the time. Buwei argued that because she lived with Yang Hua beginning in mid-1984 (four years before their legal marriage), this indicated she believed they were married. But another of Buwei's friends testified she did not think it mattered if two unmarried people lived together. Yet another friend testified that if he had discovered Buwei and Yang Hua were living together before marriage, he would still have remained friends. And Buwei's expert on Chinese culture testified that cohabitation before marriage did occur, even when against the law.

The record is replete with other such examples.¹² Moreover, the trial court was free simply to disbelieve Buwei's testimony, even if uncontradicted. (*Hicks v. Reis*, *supra*, 21 Cal.2d at pp. 659-660.) Here, the trial court

¹² Buwei spends 10 pages of her brief arguing that the testimony of Gong Hua's expert on Chinese culture, Professor Perry Link, should be excluded due to his supposed lack of qualifications, and his purported erroneous conclusions. Buwei has forfeited the right to challenge Professor Link's testimony by failing to object to that testimony during or prior to trial. (Evid. Code, § 353; *SCI California Funeral Services, Inc. v. Five Bridges Foundation* (2012) 203 Cal.App.4th 549, 563 ["We agree that Five Bridges has forfeited this challenge [to the expert's methodology] by failing to make an objection below that satisfies the requirements of Evidence Code section 353"].)

stated: “I’m not convinced she’s being honest with me. And this is a credibility case”.¹³

The record reveals that Buwei’s evidence was neither ““uncontradicted and unimpeached”” nor ““of such a character and weight as to leave no room for a judicial determination that it was insufficient to support a finding.”” (*Sonic Manufacturing Technologies, Inc. v. AAE Systems, Inc., supra*, 196 Cal.App.4th at p. 466.) Accordingly, her challenge fails.

¹³ Buwei also argues that it was “improper and reversible error for the trial judge below to allow his personal experience to influence the decision on a material of issue [*sic*] of disputed fact.” Buwei complains that the trial judge interjected his own personal experiences of China, and posed his own questions to the witnesses. First, Buwei forfeits any objections to these observations or questions, because the record demonstrates no objections to them when they occurred. (Evid. Code, § 353.) Second, our review of the record reveals nothing inappropriate in the court’s questions or comments.

DISPOSITION

The judgment is affirmed. Respondent is awarded his costs.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

MANELLA, P. J.

We concur:

WILLHITE, J.

CURREY, J.