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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

TRACY LEE,

Plaintiff and Respondent,

v.

JOYA GREEN, INC., et al.,

Defendants and
Appellants.

B276687

(Los Angeles County
Super. Ct. No. BC565334)

APPEAL from a judgment of the Superior Court of
Los Angeles County. David L. Minning, Judge. Affirmed.

Law Offices of Ray Hsu & Associates and Ray Hsu, for
Defendants and Appellants.

The Hurricane Firm, Katrina N. Yu; Abir Cohen Treyzon
Salo, Boris Treyzon and Cynthia Goodman, for Plaintiff and
Respondent.

Defendants Joya Green, Inc., Poly Joya, Inc. (corporate defendants), Tien Hsin Chi, Jen Hao Chi, and Kuan Hua Wang (individual defendants) (collectively, defendants) appeal from the judgment entered after a two-day bench trial in favor of respondent Tracy Lee on her claims for fraudulent transfer of funds and conspiracy to defraud. Although defendants make three arguments on appeal, we have jurisdiction to consider only one of them, namely whether the trial court erred in denying the individual defendants' request made on the second day of trial for additional time to retain an interpreter. As discussed below, on the record before us we discern no prejudicial error and affirm.

BACKGROUND

1. Events Preceding Trial¹

According to Lee, her father used to work for defendant Joya Green. In 2012 and 2013, Lee's father filed two complaints against Joya Green for unpaid wages. In 2013, the California Labor Commissioner awarded her father more than \$50,000 in unpaid wages. Before her father passed away in 2014, he assigned his rights in the Labor Commissioner awards to Lee, who pursued those awards in court. By April 2014, the Los Angeles Superior Court had entered judgment on each award against Joya Green. Lee has been trying to execute on those judgments ever since. According to Lee, while legal proceedings

¹ These background facts are taken from Lee's trial court filings in support of her request for entry of default against the corporate defendants, which default was entered and not challenged by defendants. As defendants correctly note, however, these facts are not directly relevant to the precise issue on appeal. Nonetheless, in order to give context to this appeal, we include a brief summary of the background with the recognition that this appeal does not turn on these specific facts.

were ongoing against Joya Green, the company ceased operations and closed its bank accounts and offices. Lee claims Joya Green reopened under a newly formed business, namely defendant Poly Joya.

Eventually, in December 2014, Lee filed the instant lawsuit alleging causes of action for fraudulent transfer of funds and conspiracy to defraud. In September 2015, counsel for defendants filed a successful motion to be relieved as counsel and defendants continued in pro per.

2. Defaults, Bench Trial and Judgment

In October 2015, the trial court entered default against the corporate defendants. Those defendants did not seek relief from default and eventually, as noted below, default judgment was entered against them.

The individual defendants did not appear at the final status conference and, on the scheduled trial date of May 25, 2016, only two of the three individual defendants appeared. Those defendants requested the assistance of an interpreter² and the court continued trial to June 8, 2016. Lee gave notice of the trial court's orders, including its order that defendants were responsible for finding their own interpreter and attorney. Specifically, Lee notified defendants: "this Court is under no obligation by statute or case law to appoint a court certified translator or defense counsel to Defendants for this case, and if Defendants require a translator for trial, they are solely responsible for retaining such person(s) for trial." Lee also

² It appears the court's minute order mistakenly indicates defendants requested a Korean-English interpreter when they likely requested a Mandarin-English interpreter, such as the interpreter requested and used later in the trial proceedings.

advised defendants that, at trial, she would present her default prove-up evidence as to the corporate defendants.

On June 8, 2016, the first day of trial, the case was transferred to a different courtroom for a two-day bench trial. All three individual defendants appeared in pro per and again requested appointment of an interpreter. That first morning of trial, the new judge hearing the case appointed a Mandarin-English interpreter to assist the individual defendants. The parties presented opening statements, and Lee examined defendant Wang under Evidence Code section 776. By the afternoon session, however, the judge issued an order stating a court-appointed interpreter was not required and would no longer be provided. The court stated: “It comes to the court’s attention that this case IS NOT [a]n Unlawful Detainer action, therefore defendants are not entitled to an Interpreter at the court’s expense.^[3] [¶] All parties are so advised.” Trial was trailed to the following day.

Despite being advised to arrange for an interpreter, the individual defendants appeared for the second day of trial without an interpreter and again asked the court to appoint one. Defendants also requested a continuance of trial so they could retain an interpreter. The court denied the individual defendants’ requests and proceeded with the bench trial. Lee concluded her examination of Wang and defendant Chi testified.

³ The following day, the trial court amended its order nunc pro tunc to state: “It comes to the court’s attention that defendants are not entitled to use of the free Interpreter Services provided by the court as said services are only available to parties involved in limited jurisdiction cases, not unlimited civil jurisdiction actions.”

At the conclusion of the second day of trial, June 9, 2016, and after hearing closing argument from the parties, the trial court entered judgment after court trial against the individual defendants and default judgment against the corporate defendants. The defendants were held jointly and severally liable for the total judgment amount of \$120,071.39, which the court held to be a nondischargeable judgment. No party requested a statement of decision and the trial proceedings were not transcribed by a court reporter.

3. August 8, 2016 Notice of Appeal

On August 8, 2016, each defendant filed a substitution of attorney form reflecting they had retained counsel. That same day, defendants' new counsel filed a notice of appeal from the June 9, 2016 "Judgment after court trial" on behalf of defendants.

4. Post-Judgment Motions and Orders

About one week later, on August 12, 2016, defendants filed a motion to stay enforcement of the judgment. In addition to opposing defendants' motion, Lee responded with a motion for sanctions. Lee claimed defendants' motion to stay enforcement of the judgment was frivolous and brought for the purpose of delay, to harass, and to increase the cost of litigation. Defendants opposed the motion for sanctions and filed a reply in support of their motion to stay enforcement of the judgment.

On August 25, 2016, defendants filed a motion for permission to use a settled statement or narrative statement of the June 9 trial proceedings for purposes of their appeal.

On September 7, 2016, the trial court denied defendants' motion to stay enforcement of the judgment. And on October 7, 2016, the trial court denied without prejudice defendants' motion to use a settled statement for purposes of their appeal. That

same day, the trial court also granted Lee's motion for sanctions, ordering defendants to pay Lee's attorney \$2,500. The court did not order sanctions against defendants' counsel.

A couple of weeks later, despite the fact the trial court had denied their motion without prejudice, defendants amended their designation of the record on appeal to indicate they would proceed without a record of the oral proceedings.

Defendants did not file a notice of appeal from the trial court's October 7, 2016 orders awarding sanctions and denying without prejudice their motion to use a settled statement.

DISCUSSION

1. Scope of Appeal

On appeal, defendants challenge the following three trial court rulings: (a) the court's June 9, 2016 refusal to allow the individual defendants additional time to obtain an interpreter, (b) the court's October 7, 2016 post-judgment sanctions order, and (c) the court's October 7, 2016 post-judgment order denying without prejudice defendants' request to use a settled statement on appeal. We asked the parties to brief whether this court has jurisdiction to consider defendants' challenges to the two October 7 orders. (Gov. Code, § 68081.) As explained below, we agree with Lee and conclude we lack jurisdiction to review the trial court's October 7 orders.

“If a judgment or order is appealable, an aggrieved party *must* file a *timely* appeal or forever *lose* the opportunity to obtain appellate review.’” (*Norman I. Krug Real Estate Investments, Inc. v. Praszker* (1990) 220 Cal.App.3d 35, 46 (*Praszker*).) When “no appeal is taken from such an order, the appellate court has no jurisdiction to review it.” (*Ibid.*; *Silver v. Pacific American Fish Co., Inc.* (2010) 190 Cal.App.4th 688, 693 (*Silver*).)

Here, as previously noted, judgment was entered on June 9, 2016 and defendants filed their notice of appeal on August 8, 2016, stating they were appealing the June 9 “Judgment after court trial.” After judgment was entered, Lee filed her motion for sanctions and defendants filed their motion to use a settled statement on appeal. On October 7, 2016, the trial court ordered defendants to pay sanctions and denied without prejudice defendants’ request to use a settled statement on appeal. Defendants did not file a notice of appeal from the October 7 orders.

As defendants correctly note in their opening brief on appeal, the October 7 orders were separately appealable post-judgment orders. (Code Civ. Proc., § 904.1, subd. (a)(2).) Thus, in order to challenge the October 7 orders on appeal, defendants were required to file a notice of appeal from those orders. (*Praszker, supra*, 220 Cal.App.3d at p. 46.) But because they did not do so, we lack jurisdiction to review those orders. (*Ibid.*; *Silver, supra*, 190 Cal.App.4th at p. 693.)

Contrary to defendants’ suggestion, we do not have discretion to create jurisdiction where none exists and neither we nor defendants can amend the notice of appeal to cure the evident jurisdictional bar. “For good cause, a reviewing court may relieve a party from default for any failure to comply with these rules except the failure to file a timely notice of appeal.” (Cal. Rules of Court, rule 8.60(d).) Similarly, we cannot construe defendants’ August 8 notice of appeal as a premature notice of appeal from the October 7 orders. When defendants filed their notice of appeal, Lee had not yet filed her motion for sanctions and defendants had not yet filed their motion to use a settled statement. A notice of appeal cannot encompass post-judgment

orders on motions that had not yet been filed at the time the appeal was taken. (See Cal. Rules of Court, rule 8.104(d); *Silver, supra*, 190 Cal.App.4th at p. 691.)

Accordingly, we lack jurisdiction to review the October 7 orders and will not consider defendants' challenges to those orders.

2. Defendants have shown no error.

For their remaining argument on appeal, defendants challenge the trial court's denial of the individual defendants' request—made on the second and final day of trial—for additional time to obtain an interpreter. Defendants argue that, throughout the case and until the second day of trial, the individual defendants had relied on the court to provide interpreters for them, they were willing to pay for an interpreter, it was Lee's responsibility to provide an interpreter, and the trial court abused its discretion by requiring trial to proceed without an interpreter. However, as explained below, because defendants have neither provided an adequate record on appeal nor supported their position with relevant or persuasive legal authority, they are unable to show error (let alone prejudicial error) and we must affirm.

The parties agree it is within the trial court's discretion whether to permit the use of an interpreter at trial and its ruling will not be reversed absent a clear showing of an abuse of that discretion. (See *Hilbert v. Kundicoff* (1928) 204 Cal. 485, 487–488.)

“[A]n appealed judgment is presumed correct, and appellant bears the burden of overcoming the presumption of correctness.” (*Boyle v. CertainTeed Corp.* (2006) 137 Cal.App.4th 645, 649–650.) “The appellant has the burden of showing error

occurred. [Citations.] An appellant must support his argument in the briefs by appropriate references to the record.” (*Byars v. SCME Mortgage Bankers, Inc.* (2003) 109 Cal.App.4th 1134, 1140.) Thus, as appellants, it is defendants’ obligation to demonstrate how the trial court erred and to provide a record from which the claimed error may be shown. (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295–1296 (*Maria P.*).) As appellants, defendants must also support their position on appeal with cognizable legal argument and citations to authority (*Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 956 (*Cahill*)), as well as demonstrate the claimed error was prejudicial (Cal. Const., art. VI, § 13; Code Civ. Proc., § 475).

When these basic rules of appellate review are violated, the reviewing court may disregard the unsupported arguments. “We look askance at this practice of stating what purport to be facts—and not unimportant facts—without support in the record. This is a violation of the rules . . . with the consequence that such assertions will, at a minimum, be disregarded.” (*Liberty National Enterprises, L.P. v. Chicago Title Ins. Co.* (2011) 194 Cal.App.4th 839, 846 (*Liberty National*).) Similarly “ “[w]hen 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.” ’ [Citation.] ‘We are not bound to develop appellants’ arguments for them. [Citation.] The absence of cogent legal argument or citation to authority allows this court to treat the contention as waived.’ ” (*Cahill, supra*, 194 Cal.App.4th at p. 956.)

Here, after filing an unsuccessful motion to use a settled statement on appeal, defendants elected to proceed without a record of the oral proceedings below. Thus, other than the trial

court's minute orders, we have no record of either the trial testimony or statements made by counsel, the defendants, or the trial court. Although in their briefs on appeal defendants include citations to the clerk's transcript, those citations are almost entirely to the proposed settled statement—which was rejected by the trial court—or to declarations filed after judgment was entered. Neither type of citation is appropriate or helpful. In addition, defendants cite to almost no legal authority to support their arguments, and the few cases and statutes on which they do rely are either irrelevant or do not persuade us that the trial court abused its discretion in proceeding without an interpreter on the second day of trial. Finally, defendants do not address how the result below would have been different had the trial court permitted them to retain an interpreter. In other words, even assuming the trial court erred, defendants have not shown, explained or even suggested the error was prejudicial. Thus, because defendants have failed to provide an adequate record on appeal, have not supported their position with relevant or persuasive legal authority, and have failed to demonstrate any claimed error was prejudicial, we must affirm. (*Maria P.*, *supra*, 43 Cal.3d at pp. 1295–1296; *Liberty National*, *supra*, 194 Cal.App.4th at p. 846; *Cahill*, *supra*, 194 Cal.App.4th at p. 956; Cal. Const., art. VI, § 13; Code Civ. Proc., § 475.)

DISPOSITION

The judgment is affirmed. Respondent Tracy Lee is awarded her costs on appeal.

NOT TO BE PUBLISHED.

LUI, P. J.

We concur:

ASHMANN-GERST, J.

HOFFSTADT, J.