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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

YENIFFER BEHRENS,

Plaintiff and Appellant,

v.

NATIONSTAR MORTGAGE,
LLC et al.,

Defendants and
Respondents.

2d Civil No. B276722
(Super. Ct. No. LC102592)
(Los Angeles County)

Yeniffer Behrens appeals the trial court's dismissal of her suit after it sustained demurrers to her first amended complaint (FAC). She contends: (1) the court abused its discretion when it denied her leave to amend the FAC, (2) the court abused its discretion when it inquired into the truth of the facts alleged in the FAC, (3) the defendants' loan securitization process was invalid and illegal, and (4) she has standing to challenge the foreclosure of her property. We affirm.

FACTUAL AND PROCEDURAL HISTORY¹

In May 2006, Behrens obtained a loan secured by a deed of trust to a property she owned. The deed identified EquiFirst Corporation as the lender, Stewart Title of California, Inc., as trustee, and Mortgage Electronic Registration Systems, Inc. (MERS), as nominee for the beneficiary.

Behrens defaulted on the loan. In May 2009, Quality Loan Service Corporation substituted for Stewart Title as trustee and recorded notice of Behrens's default. The following month, EquiFirst assigned its interest in the deed to Merrill Lynch Mortgage Lending, Inc., which in turn assigned its interest to Citibank, N.A.

Quality Loan recorded a notice of trustee's sale in August 2009. It recorded subsequent notices in December 2009, January 2011, May 2011, and May 2014. Wilmington Trust, N.A., purchased the property at a foreclosure sale in January 2015.

Behrens filed suit after the foreclosure sale. In her FAC, she alleged eight causes of action against Nationstar Mortgage, LLC, MERS, and Wilmington Trust, N.A. (collectively Nationstar); CitiMortgage, Inc., and Citibank, N.A. (collectively Citi); and Bank of America, N.A. (BofA): lack of title and standing/wrongful foreclosure (Civ. Code, § 2924, subd. (a)(6)); dual tracking (Civ. Code, §§ 2923.6, 2924.11); quiet title;

¹ Behrens's brief makes factual and procedural assertions without citations to the record. This summary is taken from the respondents' briefs. (See *Warren-Guthrie v. Health Net* (2000) 84 Cal.App.4th 804, 808, fn. 4, disapproved of on another ground by *Cronus Investments, Inc. v. Concierge Services* (2005) 35 Cal.4th 376, 393, fn. 8.)

declaratory relief (Code Civ. Proc., § 1060 et seq.); promissory estoppel; unfair competition (Bus. & Prof. Code, § 17200 et seq.); failure to exercise due diligence (Civ. Code, § 2923.5); and negligence.

Nationstar and Citi demurred to the FAC. The trial court sustained the demurrers as to all causes of action. It granted Behrens leave to amend except with respect to the dual tracking claim as it applied to Citi. Behrens did not file an amended complaint, but instead elected to stand on the FAC. Nationstar and Citi then moved to dismiss the actions against them. The court granted the motions.

BofA also demurred to the FAC. The record does not indicate whether the trial court ruled on BofA's demurrer or dismissed Behrens's claims against BofA.

DISCUSSION

Behrens's claims against BofA

BofA contends we should dismiss it from this appeal because of a lack of an appealable judgment. Because there is nothing in the record that a judgment has been entered as to Behrens's claims against BofA, we agree.

"A reviewing court has jurisdiction over a direct appeal only when there is (1) an appealable order or (2) an appealable judgment. [Citations.]" (*Griset v. Fair Political Practices Com.* (2001) 25 Cal.4th 688, 696.) A dismissal order entered after the trial court sustains a demurrer operates as a final, appealable judgment. (*City of Los Angeles v. City of Los Angeles Employee Relations Bd.* (2016) 7 Cal.App.5th 150, 157; see Code Civ. Proc., § 581d.) But nothing in the record indicates that the court ruled on BofA's demurrer. The only dismissal orders in the record apply to Behrens's claims against Nationstar

and Citi. Behrens has not satisfied her burden to establish that this court has jurisdiction to entertain her appeal as it applies to BofA. (*Lester v. Lennane* (2000) 84 Cal.App.4th 536, 556-557; see Cal. Rules of Court, rule 8.204(a)(2)(B).)

Behrens's claims against Nationstar and Citi

Nationstar and Citi contend we should affirm the trial court's ruling because Behrens's opening brief is deficient. We agree.

"Each and every statement in a brief regarding matters that are in the record on appeal, whether factual or procedural, must be supported by a citation to the record." (*Lona v. Citibank, N.A.* (2011) 202 Cal.App.4th 89, 96, fn. 2; see Cal. Rules of Court, rule 8.204(a)(1)(C).) "The claimed existence of facts that are not supported by citations to pages in the appellate record, or not appropriately supported by citations, cannot be considered by this court. [Citations.]" (*Mueller v. County of Los Angeles* (2009) 176 Cal.App.4th 809, 816, fn. 5.) "It is not the duty of a reviewing court to search the record for evidence on a point raised by a party whose brief makes no reference to the pages where the evidence can be found. [Citations.]" (*ComputerXpress, Inc. v. Jackson* (2001) 93 Cal.App.4th 993, 1011 (*ComputerXpress*)).

Behrens's opening brief represents "a wholly unacceptable method of appellate advocacy." (*ComputerXpress, supra*, 93 Cal.App.4th at p. 1011.) Behrens fails to include a copy of the reporter's transcript of proceedings in the record, which prevents us from determining whether the trial court abused its discretion when it denied leave to amend on one of her causes of action against Citi. (*Rossiter v. Benoit* (1979) 88 Cal.App.3d 706, 713-714; see Cal. Rules of Court, rule 8.130(h).) Additionally, her

40-page brief includes just six citations to the record: The first three citations are to the appellant's appendix. There is no appellant's appendix in the record. Behrens's fourth and sixth citations purport to direct the court to a page of BofA's letter denying her loan modification request. They instead direct us to a page of the complaint she originally filed. Her fifth citation is to a random page of the deed of trust. Because none of Behrens's contentions is supported by an appropriate reference to the record, the court must disregard them. (*Lueras v. BAC Home Loans Servicing, LP* (2013) 221 Cal.App.4th 49, 60; *Millan v. Restaurant Enterprises Group, Inc.* (1993) 14 Cal.App.4th 477, 485.)

Behrens's brief also suffers from a lack of coherent legal analysis. "Whether legal or factual, no error warrants reversal unless the appellant can show injury from the error. [Citation.]" (*City of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 286.) "[T]o demonstrate error, an appellant must supply the reviewing court with some cogent argument supported by legal analysis." (*Id.* at pp. 286-287.) "[W]e may disregard conclusory arguments that are not supported by pertinent legal authority or fail to disclose the reasoning by which the appellant reached the conclusions [they] want[] us to adopt. [Citations.]" (*Id.* at p. 287.)

The argument section of Behrens's brief contains little more than a recitation of legal principles with no application to the facts of her case. Behrens devotes several pages to the standards for reviewing a motion for judgment on the pleadings, but there was no judgment on the pleadings in this case. She claims that the transfer of the note was invalid, but provides no factual support for the claim. She discusses the Unfair Competition Law, the Homeowners' Bill of Rights, and the

ability to challenge a foreclosure without discussing the application of those laws to the facts of her case. She spends several pages of her brief urging this court to predict which line of precedent our Supreme Court will decide is correct—for a case the court decided in February 2016. (*Yvanova v. New Century Mortgage Corp.* (2016) 62 Cal.4th 919.) She also argues the trial court erred by denying her leave to amend the FAC, but the court *did* grant leave to amend as to all but one of her causes of action.

As with the lack of factual support, the dearth of legal analysis in Behrens’s brief is unacceptable. (*ComputerXpress, supra*, 93 Cal.App.4th at p. 1011.) “One cannot simply say the [trial] court erred, and leave it up to the appellate court to figure out why. [Citation.]” (*Niko v. Foreman* (2006) 144 Cal.App.4th 344, 368.) It is not this court’s duty to “‘act as counsel for [Behrens] . . . and [to] furnish a legal argument as to how the trial court’s rulings . . . constituted an abuse of discretion’ [citation], or a mistake of law.” (*Ibid.*)²

DISPOSITION

The judgment is affirmed. Respondents shall recover costs on appeal.

NOT TO BE PUBLISHED.

TANGEMAN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

² Our conclusion renders moot Citi’s request for judicial notice.

Huey P. Cotton, Jr., Judge

Superior Court County of Los Angeles

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