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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

SHOPRIDER MOBILITY
PRODUCTS, INC.,

Plaintiff and Appellant,

v.

MAXIMUM COMFORT, INC.,

Defendant and Respondent.

B269833

(Los Angeles County
Super. Ct. No. BC475380)

APPEAL from an order of the Superior Court of Los Angeles County. Suzanne G. Bruguera, Judge. Affirmed.

Jensen & Associates and Paul Rolf Jensen for Plaintiff and Appellant.

Wells, Small, Fleharty & Weil and Bartley S. Fleharty for Defendant and Respondent.

Plaintiff and appellant Shoprider Mobility Products, Inc. (Shoprider) appeals from an order dismissing its breach of contract action against defendant and respondent Maximum Comfort, Inc. (Maximum Comfort). The trial court enforced a settlement agreement that Shoprider contends was obtained through misrepresentations about the financial status of Maximum Comfort and its owner. On appeal, Shoprider argues that the trial court should have applied a standard more lenient than fraudulent inducement to its motion to set aside the settlement. Shoprider cites no authority for this lesser standard, which is inconsistent with the well-settled principle that the legal standards that apply generally to contracts also apply to settlement agreements. We therefore affirm.

BACKGROUND

Shoprider sells motorized wheelchairs. Maximum Comfort was one of its customers. On December 19, 2011, Shoprider filed a breach of contract action against Maximum Comfort, claiming that Maximum Comfort owed about \$980,000 in unpaid invoices. Maximum Comfort cross-complained for breach of contract and related claims on January 26, 2012, alleging that Shoprider refused to credit the amounts in an accrual account that Shoprider maintained for Maximum Comfort as a line of credit and for payment for advertising and other expenses. Maximum Comfort alleged that, when the amounts in the accrual account were credited, Maximum Comfort owed nothing and Shoprider owed it about \$124,000.

1. The Settlement Agreement

The parties agreed to a settlement and executed a written settlement agreement on July 10, 2013 (Settlement Agreement).

The Settlement Agreement contained a paragraph concerning representations that were material to the settlement made by Thomas Lambert, the principal shareholder in Maximum Comfort and an alleged guarantor of Maximum Comfort's obligations to Shoprider. Lambert represented that he had provided a financial statement and a supplemental e-mail to Shoprider. The Settlement Agreement stated that "Lambert and Maximum Comfort intended Shoprider to rely upon the completeness, accuracy and truth of the information contained therein in deciding to enter into this Settlement Agreement, and Shoprider did so rely thereon. Maximum Comfort and Lambert do unconditionally certify and warrant to Shoprider the completeness, accuracy and truth of the said information." The financial statement and e-mail were attached to the Settlement Agreement.

As part of the Settlement Agreement, Maximum Comfort agreed to pay Shoprider \$35,000. Shoprider agreed to provide notice of the settlement to the court. Shoprider also agreed to prepare a request for dismissal of the action with prejudice.

Maximum Comfort paid the \$35,000 on July 10, 2013. Shoprider filed the notice of settlement, but did not provide the request for dismissal.

2. The Parties' Motions

On October 21, 2013, Maximum Comfort filed a motion to enforce the Settlement Agreement pursuant to Code of Civil Procedure section 664.6.¹ Shoprider countered on November 14, 2013, by filing a motion to set aside the Settlement Agreement.

¹ Subsequent undesignated statutory references are to the Code of Civil Procedure.

Shoprider based its motion on information concerning Lambert's assets that Shoprider claimed it discovered after the Settlement Agreement had been executed. Shoprider claimed that, contrary to Lambert's representations in his financial statement and at his deposition, Maximum Comfort was still in business and that Lambert had undisclosed interests in two other ventures. Shoprider supported its motion with a declaration of counsel, attaching a Dun and Bradstreet record for Maximum Comfort dated August 12, 2013, reflecting "annual sales" of \$130,000. The declaration also included information from the California Secretary of State, disclosing Lambert's interests in two entities called "Ten 2 Four, LLC" and "TJ Distributing, Inc." In addition, the motion attached a one-page declaration by Shoprider employee John Wright discussing several conversations with third parties in which they disclosed communications with Lambert about customer referrals. Shoprider filed an opposition to Maximum Comfort's motion on December 8, 2013, asserting the same grounds for the alleged invalidity of the Settlement Agreement.

Maximum Comfort opposed Shoprider's motion to set aside the Settlement Agreement with declarations from Lambert and the former chief financial officer of Maximum Comfort, Lisa Burch. They testified that, as of August 2012, Maximum Comfort was insolvent and had laid off all of its employees. Lambert also testified that Ten 2 Four, LLC, and TJ Distributing, Inc., had no value and that any business that he referred to third parties did not result in any compensation. He testified that he had actually been employed by one of the third parties to which he allegedly referred business, Care Medical, from July 8, 2013, to

November 19, 2013, and received compensation of only \$5,340.95 for that employment.

3. The Trial Court's Ruling

Following an unreported hearing, the trial court issued a written ruling on January 7, 2016, adapted from Maximum Comfort's proposed order. The ruling denied Shoprider's motion to set aside the Settlement Agreement and ordered the entire action dismissed pursuant to section 664.6. The court concluded that Shoprider "failed to provide competent evidence in support of its claim that it was fraudulently induced to enter into the [Settlement] Agreement." The court found that Shoprider had "failed to establish that Maximum [Comfort] or Lambert falsely represented or concealed material facts."

The court ruled that the Wright declaration was inadmissible hearsay and in any event did not show that Lambert received any compensation from referrals. The court also found that there was no evidence that Ten 2 Four, LLC, or TJ Distributing, Inc., had any value. Finally, the court credited the testimony of Lambert and Birch that Maximum Comfort had no assets and was not an operating business at the time the Settlement Agreement was executed. The court concluded that the Dun and Bradstreet record did not contradict that testimony, as it referred only to Maximum Comfort's revenues in 2012, the year before the Settlement Agreement was executed.

DISCUSSION

1. The Trial Court Properly Applied Contract Principles to Determine the Validity of the Settlement Agreement

Shoprider contends that the trial court erred in relying upon the standard for showing fraud in the inducement of a

contract in evaluating the validity of the Settlement Agreement.² Shoprider claims that the trial court instead should have applied a lesser standard allegedly derived from its “equitable jurisdiction to control its calendar.” Shoprider frankly acknowledges that it has no authority to support such a standard. Nor does Shoprider explain specifically what the standard should be, suggesting simply that the courts should have a “mind to do equity, based on substantial fairness and justice.”³

Shoprider’s argument contradicts settled law. Settlement agreements are “‘governed by the legal principles applicable to contracts generally.’” (*Folsom v. Butte County Assn. of Governments* (1982) 32 Cal.3d 668, 677, quoting *Shriver v. Kuchel* (1952) 113 Cal.App.2d 421, 425.) In particular, a settlement agreement is valid and enforceable unless it was formed under conditions that would invalidate other types of contracts. In California a “‘valid compromise agreement has many of the attributes of a judgment, and in the absence of a showing of fraud or undue influence is decisive of the rights of the parties thereto and operates as a bar to the reopening of the original

² We apply a de novo standard of review to the question whether the trial court applied the correct legal standard. (*Karpinski v. Smitty’s Bar, Inc.* (2016) 246 Cal.App.4th 456, 461 (*Karpinski*).)

³ Shoprider appears to agree that *some* showing of fraud or other accepted defense to the formation of a contract is necessary under this unexplained standard, acknowledging that “[a] settlement agreement can only be set aside upon a showing of mutual mistake of fact, fraud, mistake, duress, or undue influence.”

controversy.’ ” (*Folsom*, at p. 677; see also *Stewart v. Preston Pipeline Inc.* (2005) 134 Cal.App.4th 1565, 1585 [the validity of a settlement agreement is “ ‘judged by the same legal principles applicable to contracts generally’ ”], quoting *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1128.)

Shoprider analogizes to cases applying the principle of equitable estoppel to bar defendants from asserting the statute of limitations when the defendants’ conduct has caused plaintiffs to delay filing suit. Even if the analogy were persuasive, it could not displace the law cited above that expressly governed the trial court’s decision. In any event, equitable estoppel is not applicable here. Maximum Comfort did not seek to benefit from a procedural default that it induced. (See *Benner v. Industrial Acc. Com.* (1945) 26 Cal.2d 346, 349–350 [“To create an equitable estoppel, ‘it is enough if the party has been induced to *refrain* from using such means or taking such action as lay in his power, by which he might have retrieved his position and saved himself from loss’ ”], quoting 3 Pomeroy Eq. Jur. (5th ed.) § 812, p. 233.) Rather, it sought enforcement of an agreement to settle and dismiss the case.

Shoprider also cites evidence that Maximum Comfort’s counsel used offensive language and engaged in unprofessional conduct when he learned that Shoprider was attempting to investigate Maximum Comfort’s assets after the Settlement Agreement had been executed. Shoprider does not cite any authority that offensive conduct by opposing counsel can invalidate an otherwise enforceable settlement agreement. In any event, the argument does not make sense here in light of the timing. The alleged conduct occurred several months after the parties had already executed the Settlement Agreement and after

Shoprider had filed a notice of settlement. Thus, even if there were some legal basis to consider the conduct of counsel in determining whether the Settlement Agreement was valid, the conduct at issue here could not have been relevant.

2. Substantial Evidence Supports the Trial Court's Ruling Enforcing the Settlement Agreement Under Section 664.6

It is unclear whether Shoprider seeks reversal on the ground of alleged fraud in the inducement apart from its argument concerning the appropriate legal standard.⁴ In any event, we conclude that substantial evidence supports the trial court's ruling.

A trial court deciding whether to order enforcement of a settlement agreement pursuant to section 664.6 “acts as a trier of fact.” (*Skulnick v. Roberts Express, Inc.* (1992) 2 Cal.App.4th 884, 889.) The trial court has “authority to determine whether the parties entered into a valid and binding settlement,” using the same legal principles applicable to contracts generally. (*In re Marriage of Hasso* (1991) 229 Cal.App.3d 1174, 1180.) The trial court's ruling on all factual issues “must be upheld where supported by substantial evidence.” (*Ibid.*; *Karpinski, supra*, 246 Cal.App.4th at p. 461.)

Shoprider claims that Lambert falsely represented his assets. It relies on evidence that: (1) Maximum Comfort had

⁴ In its opening brief, Shoprider states that “[h]ad the [trial] court reached the same result but applied a different standard, then perhaps we would not be here.” However, in its reply brief it states that “[w]e want this to be very clear: Maximum Comfort, in lying to Shoprider to induce it to enter into the settlement agreement, was fraudulent.”

operating revenues of \$130,000 in 2012 according to Dun and Bradstreet; (2) Lambert had discussions with several businesses about referrals of customers; and (3) Lambert failed to disclose his interest in Ten 2 Four, LLC, and TJ Distributing, Inc.

The Lambert and Birch declarations directly contradicted Shoprider's contention that Maximum Comfort was still in business. As of August 2012, Maximum Comfort had laid off all of its employees and had voluntarily surrendered or canceled its provider numbers for both Medicare and Medi-Cal, which were the source of all of its business. The trial court credited this evidence. Because the trial court's decision was based on substantial evidence, we cannot revisit it on appeal.

Moreover, the trial court reasonably rejected the evidence that Shoprider offered in support of its claim that Lambert materially misrepresented his assets. First, even if accurate, the Dun and Bradstreet report of revenues by Maximum Comfort in 2012 was not relevant to the status of the company at the time of the Settlement Agreement in July 2013.

Second, the trial court acted within its discretion in ruling that the Wright declaration contained inadmissible hearsay. (*Christ v. Schwartz* (2016) 2 Cal.App.5th 440, 446–447 [“ ‘A trial court's exercise of discretion in admitting or excluding evidence is reviewable for abuse . . . and will not be disturbed except on a showing the trial court exercised its discretion in an arbitrary, capricious, or patently absurd manner that resulted in a manifest miscarriage of justice’ ”], quoting *People v. Rodriguez* (1999) 20 Cal.4th 1, 9–10.) The court also reasonably concluded that, even if Wright's testimony were admissible, it did not show that Lambert received any compensation for referrals. In fact, Lambert was actually an employee of one of the third parties to

which he allegedly referred business. Finally, Lambert's alleged conduct occurred several months after the Settlement Agreement was executed, and therefore was not relevant to Lambert's assets at the time he made the representations at issue.

Third, Lambert testified that neither Ten 2 Four, LLC, nor TJ Distributing had any value. He explained that Ten 2 Four, LLC, was dissolved in 2011 and that TJ Distributing had no business or assets at the time of the Settlement Agreement. In light of this testimony, the trial court reasonably concluded that Shoprider failed to provide evidence that Lambert's omission of these entities on his financial statement was "material to Shoprider's decision to enter into the [Settlement] Agreement."

3. The Doctrine of Unclean Hands Does Not Provide a Ground for Reversal

Shoprider also argues that Maximum Comfort should be barred from asserting that the standard for showing fraud in the inducement applied to the validity of the Settlement Agreement because Lambert had "unclean hands" from his conduct in allegedly providing false financial information. Shoprider's argument is incongruous in asserting that a *lesser* standard of proof than fraud should apply *because of* Lambert's alleged fraud. The argument is just as incongruous if Shoprider's claim is that misleading conduct *not* rising to the level of fraud justifies a less demanding standard than fraud. Such a rule would completely undermine the law that proof of fraud in the inducement is necessary to invalidate a contract when a party claims that it was misled.

More fundamentally, the doctrine of unclean hands does not apply here. The doctrine does not provide a claim for relief. Rather, in appropriate cases, the doctrine can support a *defense*

to claims for relief brought by another. (*Brown v. Grimes* (2011) 192 Cal.App.4th 265, 284.) The basis for the unclean hands doctrine is the equitable principle that a party should not be permitted to “ “set the judicial machinery in motion and obtain some remedy” “ ” where he or she has “ “violated conscience” “ ” or acted in bad faith. (*DeGarmo v. Goldman* (1942) 19 Cal.2d 755, 764–765.) The doctrine is not a mechanism to make it easier for a party to prove a claim when the party alleges particularly bad conduct.

DISPOSITION

The trial court’s order dismissing the action is affirmed. Maximum Comfort is entitled to recover its costs on appeal.

NOT TO BE PUBLISHED.

LUI, J.

We concur:

CHANEY, Acting P. J.

JOHNSON, J.