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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

JUNG SOOK LEE, Plaintiff and Respondent, v. NELSON LEE et al. Defendants and Appellants.	B280020 (Los Angeles County Super. Ct. No. BC549356)

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

David S. Kim & Associates, David S. Kim, and Arman Matevosyan for Defendants and Appellants.

The Law Offices of John H. Oh & Associates and John Hyun Oh for Plaintiff and Respondent.

Appellants Nelson Lee and 1212 Albany, LLC challenge a judgment in the underlying consolidated actions determining that certain real property is a community property asset of Douglas Lee and respondent Jung Sook Lee. We reject their contentions and affirm.

FACTS

A. *Background*[1]

In 1993, Douglas Lee and respondent Jung Sook Lee were married in Korea, where they operated a retail furniture sales business. When the marriage occurred, each had a son from a prior spouse. Jung Sook's son is Jim Myung Kim, and Douglas's son is appellant Nelson Lee.[2]

In 1998, Douglas, who had been a United States resident, moved to Los Angeles and established a business called "Keystone Furniture," which was located in a leased store on Albany Street (the property). Jung Sook, a Korean national, joined him later.

In 2000, the property's owner sold the property for $350,000. Following the sale, Nelson's name appeared on the title to the property as its owner. In 2004, Keystone Furniture was incorporated as "Keystone Furniture, Inc." (Keystone). In

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[1] Our summary of the background facts relies on findings of the trial court not challenged on appeal. As the record lacks the trial court's statement of decision, we hereby augment the record to include it. (Cal. Rules of Court, rule 8.155(a)(1)(A).)

[2] Because the key parties share the family name "Lee," we refer to them by their other names. (*In re Marriage of Schaffer* (1999) 69 Cal.App.4th 801, 803, fn. 2)

2010, Nelson executed a grant deed transferring the property to appellant 1212 Albany, LLC.[3]

B. *Underlying Consolidated Actions*

On June 23, 2014, Keystone commenced a breach of fiduciary duty action against Jung Sook and Jin Myung Kim, alleging that they had embezzled corporate funds for their own benefit. On June 30, 2014, Jung Sook initiated a marital dissolution action against Douglas, which was later consolidated for all purposes with the breach of fiduciary duty action.

C. *Joinder of Nelson and 1212 Albany, LLC*

In July 2014, Jung Sook sought to join appellants as parties to the dissolution action on the ground that the property constituted a community asset. Jung Sook maintained that appellants held the property for the benefit of the community in virtue of a resulting trust, asserting that Jung Sook and Douglas had paid "[a]ll funds used to acquire and maintain [the] property" during their marriage.

Jung Sook also filed a complaint against appellants containing a single claim for the imposition of a constructive trust on the property. The complaint alleged: "In or about February 2000 [Jung Sook] and [Douglas] purchased [the property]. . . . [They] paid the down payment [and] all mortgage payments[,] along with all other expenses associated with th[e] property. Upon the instruction of [Douglas], the parties agreed to place title . . . in [Nelson's] name. . . . The property was placed in [Nelson's] name to protect against claims stemming from business and IRS debts pending against [Douglas]. [¶] . . . [¶] In or about June [] 2014, [Jung Sook] requested that [Nelson] and [Douglas]

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[3] Nelson is the sole managing member of 1212 Albany, LLC.

. . . confirm [Jung Sook's] . . . ownership interest. [They] refuse[d] and continue[] to refuse to do so."

After joinder was granted, the parties expressly agreed to a bifurcated trial on whether the property was a community asset or appellants' separate property.

D. *Trial*

On June 7, 2016, a bench trial commenced on the bifurcated issue. Douglas, Jung Sook, and Nelson appeared as witnesses.

1. *Douglas's Testimony*

Douglas testified that after returning to the United States, he collaborated with Nelson to start the furniture business on the property. Because Douglas was subject to a tax lien and his credit rating was not good, Nelson rented the property.

Douglas further testified that Nelson was the property's sole owner. According to Douglas, when he learned that the property was for sale, Jung Sook was not living in the United States. He contacted her in Korea and requested money to buy the property, but she said that she had none. Douglas then sought funds from his mother, who decided to give or loan Nelson -- rather than Douglas -- $35,000 so that Nelson could buy the property. Nelson used those funds to make the down payment, arranged for a loan in his own name to cover the balance of the purchase price, paid certain purchase fees, and took title to the property as its owner.

Douglas acknowledged that he borrowed $20,000 to pay the closing costs, and that Nelson paid little of the debt incurred for the purchase of the property from his personal accounts. Douglas stated that "virtually 100 percent" of the payments on the original loan were made from the furniture business account. Later, in 2007, Nelson refinanced the original loan with a new loan from Hanmi Bank. The monthly payments for the Hanmi

Bank loan were also made from the furniture business account, and the loan's $250,000 balloon payment -- which came due in 2013 or 2014 -- was paid by the proceeds from the sale of a building that Douglas and Jung Sook owned. Douglas nonetheless maintained that some funds taken from the furniture business account to make property-related payments were properly attributed to Nelson, stating: "[Nelson] ran Keystone with me. It was his own company."

According to Douglas, Jung Sook knew that she had no claim to the property. He testified that in 2006, before Nelson entered into the Hanmi Bank loan, Jung Sook requested that her name be put on the title to the property. Douglas told her that the property belonged to Nelson.

Douglas further testified that in December 2006, he and Nelson executed a commercial lease agreement regarding the property. Under the lease, Keystone and Douglas were obliged to make monthly payments of $7,000 in order to use the property. Douglas did not inform Jung Sook of the lease agreement's existence until 2013. In June 2014, after Jung Sook ceased working at the furniture business, Nelson served a three-day notice to pay rent or leave the property on Douglas, seeking approximately $480,000 in unpaid rent.

2. *Jung Sook's Testimony*

Jung Sook testified that she managed the furniture business from 2005 to 2014. According to Jung Sook, she was in the United States when the property was purchased. Although she and Douglas bought the property, Nelson's name was placed on the title to it because Douglas was subject to IRS and business debts. The $35,000 down payment was borrowed from Douglas's mother and a friend, who were repaid from the furniture business's revenue and other funds. The furniture business's

revenues paid all other expenses relating to the property -- including property taxes and the loan payments on the debt incurred to buy the property -- with the exception of the Hanmi Bank loan balloon payment, which Jung Sook and Douglas paid.

Jung Sook denied any awareness of the 2007 lease agreement prior to the inception of the underlying litigation. According to Jung Sook, she would not have agreed to pay rent to Nelson if asked to do so, as she and Douglas owned the property. She acknowledged that after 2008, while managing the furniture business, she provided financial information to Keystone's accountant, who prepared its tax returns, and that the returns themselves reflected deductions for certain rent payments. She testified that the rent payments underlying the deductions did not relate to the property held by Nelson, but to a different property owned by another landlord.

Jung Sook also denied requesting that her name be placed on the property's title at the time the Hanmi Bank loan was being obtained, stating: "I thought that doing it in our son's name was the same as doing it in our name. I never thought this would happen."

3. *Nelson's Testimony*

Nelson testified that he was associated with the furniture business from 1999 to 2006. The furniture business was his idea, and he took 60 percent of its income. Later, in 2005, after the furniture business was incorporated as Keystone, Nelson owned a 26-percent interest in the business.

Nelson further testified that in 1999 or 2000, he entered a chiropractic college, and subsequently opened several clinics. For a 10-year period, while he was attending college and establishing his own businesses, he received financial support from Douglas and Jung Sook, who provided the funds personally and through

the furniture business. According to Nelson, when he was in college, the furniture store was Douglas's sole source of income. Nelson stated that he could not estimate the amount of funds that Douglas and Jung Sook had loaned or given him, but acknowledged that when deposed, he testified that he owed the furniture business over $344,000.

According to Nelson, when the property was purchased, Jung Sook was not in the United States, and Douglas "was Keystone." Nelson was the sole borrower regarding the initial purchase loan, and never agreed to reconvey the property to Jung Sook or Douglas. Douglas's mother gave Nelson $35,000 as a down payment for the purchase of the property, Douglas paid the closing costs, and the furniture business made the loan payments. Nelson initially testified that he did not know who was the borrower regarding the Hanmi Bank loan or why Jung Sook paid one-half of that loan's balloon payment. He later stated that he was the borrower regarding the original loan and the Hanmi Bank loan.

Nelson testified that prior to the 2006 lease agreement, he regarded the furniture business's loan payments as a "loan and gift." At trial, Nelson acknowledged that he could not estimate the amount of funds reflecting loans or the amount of funds reflecting gifts. According to Nelson, at his request, his uncle prepared the lease agreement. Initially, no rent payments were made under the agreement in order to offset Nelson's debt to the furniture business. Later, in 2012, Keystone paid rent totaling $25,094. Nelson stated that he prepared the June 2014 notice to pay rent or leave the premises, based on his own calculation of the rent owed him.

E. *Statement of Decision*

On November 8, 2016, in a detailed statement of decision, the trial court concluded that the property was a community asset held in Nelson's name solely for the sake of convenience. The court found that the marital community funded the property's purchase, that Jung Sook and Douglas never "[gave] away true ownership interest in [the property]," and that none of the parties believed that Nelson had "any real ownership interest."

The court stated: "According to [Nelson's] admissions . . . , he has never paid any of the mortgage payments. He has never once paid the property tax . . . . He has never once paid for refinancing the subject property. He has never paid any amount of money in paying off the lump sum mortgage balance. [He] admitted that it was his father . . . and [Jung Sook] who paid all of the above. . . . [Douglas] also admitted that he and [Jung Sook] paid all of the mortgage, property tax, and . . . other payments associated with [the property]." Additionally, the court noted Nelson's ignorance of many aspects of the Hanmi Bank loan.

The court further found that the 2007 lease was a "sham," stating: "[Douglas] and [Nelson] . . . tried to defraud [Jung Sook] by creating a false lease . . . to make the appearance that [Nelson] was a true 'landlord'. . . . The formation of the lease was questionable . . . . But . . . the most dubious fact was that rent was never actually collected. [Nelson] and [Douglas] claimed that there was a rent offset, but neither party could show what was paid and what wasn't. . . . Another key fact to show the fraudulent nature of the lease is that [Douglas] and [Nelson] did

not disclose the existence of the lease agreement until [Jung Sook] filed for divorce."[4]

DISCUSSION

Appellants contend the trial court erred in determining that the property is a community asset. For the reasons discussed below, we disagree.

A. *Governing Principles*

Generally, "either spouse in a marital dissolution action may join third parties claiming an interest in alleged community property." (*Glade v. Glade* (1995) 38 Cal.App.4th 1441, 1450.) Here, the trial court was required to resolve two closely related issues, namely, whether the property held by Nelson belonged to Jung Sook and Douglas, and whether it constituted an asset of their marital community.

Two presumptions are relevant to those issues. Nelson's claim to the property implicates the so-called "'form of title'" presumption stated in Evidence Code section 662. (*In re Marriage of Brooks & Robinson* (2008) 169 Cal.App.4th 176, 184-185 (*Brooks*), abrogated on another ground in *In re Marriage of*

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[4] Appellants noticed their appeal from the statement of decision. "The general rule is that a statement or memorandum of decision is not appealable." (*Alan v. American Honda Motor Co., Inc.* (2007) 40 Cal.4th 894, 901.) Nonetheless, "[r]eviewing courts have discretion to treat statements of decision as appealable . . . when a statement of decision is signed and filed and does, in fact, constitute the court's final decision on the merits." (*Ibid.*) Those conditions are satisfied here, as the statement of decision is signed and filed, and the accompanying minute order states that the statement of decision constitutes the court's ruling.

Valli (2014) 58 Cal.4th 1396, 1405; *In re Marriage of Haines* (1995) 33 Cal.App.4th 277, 294-295 (*Haines*).) That statute provides: "The owner of the legal title to property is presumed to be the owner of the full beneficial title. This presumption may be rebutted only by clear and convincing proof." (Evid. Code, § 662.)

Also pertinent is the presumption stated in Family Code section 760, which provided: "Except as otherwise provided by statute, all property, real or personal, wherever situated, acquired by a married person during the marriage while domiciled in this state is community property." Under this section, "there is a general presumption that property acquired during marriage by either spouse other than by gift or inheritance is community property unless traceable to a separate property source. [Citation.] This is a rebuttable presumption affecting the burden of proof; hence it can be overcome by the party contesting community property status." (*Haines*, *supra*, 33 Cal.App.4th at pp. 289-290.)

In assessing appellants' contentions, we will affirm the trial court's factual findings to the extent they are supported by substantial evidence (*Nordquist v. McGraw-Hill Broadcasting Co.* (1995) 32 Cal.App.4th 555, 561), regardless of whether the party seeking to establish the findings was obliged to prove them by a preponderance of the evidence or by clear and convincing evidence (see *Shupe v. Nelson* (1967) 254 Cal.App.2d 693, 700). Upon review for substantial evidence, we "consider the evidence in the light most favorable to the prevailing party, giving that party the benefit of every reasonable inference and resolving conflicts in support of the judgment. [Citation.]" (*Nordquist v. McGraw-Hill Broadcasting Co*, *supra*, at p. 561.)

In resolving issues presented, the trial court issued a statement of decision. To the extent the statement may lack

findings on a material issue, we will infer all such findings necessary to support the court's ruling, unless appellants asserted a specific objection regarding an omitted finding. (*Ermoian v. Desert Hospital* (2007) 152 Cal.App.4th 475, 494-495.)

B. *Analysis*

In our view, the trial court did not err in finding that the property was a community asset placed in Nelson's name solely for the convenience of Jung Sook and Douglas. As explained below, there is sufficient evidence (1) that the marital community supplied the funds used to purchase the property, and (2) that Jung Sook and Douglas owned the property by virtue of a so-called "resulting trust." Accordingly, the property was an item of community property.

The record supports the trial court's determination that the marital community was the source of the funds used to buy and maintain the property, even though Nelson was the named borrower on the loans relating to the property. Jung Sook testified that the down payment was borrowed from third parties but repaid from the furniture business account; furthermore, as the trial court noted, Douglas admitted that all the loan, tax, and other property-related payments were made from that account or other sources available to Douglas and Jung Sook. In view of the presumption regarding property acquired during a marriage, the trial court reasonably inferred that the community provided the funds to buy and maintain the property.

We recognize that there is evidence suggesting that some of those funds might be ascribed to Nelson. Douglas testified: "[Nelson] ran Keystone with me. It was his own company." Similarly, Nelson testified that from 1999 until 2006, he received 60 percent of the furniture business's revenue, and that in or about 2005, he owned a 26 percent interest in Keystone.

However, as the finder of fact, the trial court was entitled to reject Douglas's and Nelson's testimony, provided it did not act arbitrarily. (*Ortzman v. Van Der Waal* (1952) 114 Cal.App.2d 167, 171.) The court had ample grounds to conclude that Douglas and Nelson had not overcome the presumption regarding property acquired during a marriage, in view of their failure to state how much of the property-related payments -- if any -- reflected income due Nelson from the furniture business, and Nelson's inability to estimate the gifts and loans he received from Jung Sook and Douglas.

The record also supports the trial court's determination that "the true owner of the [property] is the community." Because Nelson holds the legal title to the property, the key issue here is whether he also holds the so-called "beneficial title" in the property. Our focus is thus on the "form of title" presumption, which "has application . . . when there is no dispute as to where legal title resides but there is [a] question as to where all or part of the beneficial title should rest." (*Murray v. Murray* (1994) 26 Cal.App.4th 1062, 1067, italics omitted.)

The trial court found that Jung Sook and Douglas possessed the beneficial interest by virtue of a resulting trust, although it did not use that term.[5] "'A resulting trust arises by operation of law from a transfer of property under circumstances showing that the transferee was not intended to take the beneficial interest. [Citations.] Such a resulting trust carries out

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[5] As we review the trial court's ruling, not its reasoning (*J.B. Aguerre, Inc. v. American Guarantee & Liability Ins. Co.* (1997) 59 Cal.App.4th 6, 15), we will affirm the trial court's ruling on any theory established by the record (*Day v. Alta Bates Medical Center* (2002) 98 Cal.App.4th 243, 252, fn. 1).

and enforces the inferred intent of the parties. [Citations.]' [Citation.] 'It has been termed an "intention-enforcing" trust, to distinguish it from the other type of implied trust, the constructive or "fraud-rectifying" trust. The resulting trust carries out the inferred intent of the parties; the constructive trust defeats or prevents the wrongful act of one of them.' [Citations.] It differs from an express trust in that it arises by operation of law, from the particular facts and circumstances, and thus it is not essential to prove an express or written agreement to enforce such a trust. [Citations.]" (*Fidelity National Title Ins. Co. v. Schroeder* (2009) 179 Cal.App.4th 834, 847-848.)

We find dispositive guidance on the issues presented here from *In re Marriage of Ruelas* (2007) 154 Cal.App.4th 339 (*Ruelas*). There, in a divorce action, the husband claimed that a condominium obtained by his wife during the marriage and held in her name was a community asset. The wife's parents then initiated an action for quiet title to the condominium, which was consolidated with the divorce proceeding. (*Id*. at p. 341.) At trial, evidence was presented that the parents leased the condominium before their daughter's marriage. (*Ibid*.) After the marriage, the parents -- who had a poor credit rating -- exercised an option to buy the condominium contained in the lease, but arranged for their daughter to secure the purchase loan in her name and hold title as its owner. (*Id*. at pp. 341-342, 344.) Although the daughter and her husband made the down payment and loan payments in their own names, the parents supplied the funds for those payments. (*Id*. at p. 341.)

After the trial court found that the parents owned the beneficial interest in the condominium through a resulting trust, the appellate court affirmed, concluding there was "'clear and convincing proof'" sufficient to defeat the "form of title"

presumption. (*Ruelas*, *supra.* 154 Cal.App.4th at p. 345.) The court explained: "The clear and convincing proof requirement operates in the trial, and not the appellate, court. The substantial evidence rule that applies on appeal, applies without regard to the standard of proof applicable at trial. . . . In any event, the nearly overwhelming weight of the evidence in this case is that [the daughter] intended to, and did, take legal title in her name for the benefit of her parents."

We reach a similar conclusion here. As in *Ruelas*, the evidence showed that Douglas and Jung Sook arranged for Nelson to hold legal title to the property due to Douglas's bad credit, and that they were the ultimate source of the funds needed to pay off the loans on the property, even though Nelson was the named borrower on the pertinent loans. That evidence sufficed to demonstrate a resulting trust.[6] Furthermore, in view of the presumption regarding property acquired during a marriage, the evidence that Jung Sook and Douglas funded their acquisition of the beneficial interest in the property from community sources established that the beneficial interest was *itself* a community asset.

C. *Appellants' Contentions*

Appellants challenge the trial court's determinations on several grounds.

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[6] Although the statement of decision does not mention the applicable "clear and convincing proof" standard, Nelson's counsel expressly directed the court's attention to that standard before the court issued the statement of decision. As error on appeal is not presumed, we infer that the trial court applied the standard. (*People v. Clifton* (1969) 270 Cal.App.2d 860, 862.)

1. *"Form of Title" Presumption*

Relying primarily on *Brooks*, *supra*, 169 Cal.App.4th 176, appellants contend the trial court's determinations reflect an erroneous application of the "'form of title'" presumption. As explained below, the contention fails because *Brooks* is distinguishable, and a key element of its rationale is no longer good law.

In *Brooks*, after a couple married, the wife took title to some real property in her own name. (*Brooks*, *supra*, 169 Cal.App.4th at pp. 180-181.) Although the husband knew that she was doing so, they executed no written declaration meeting the statutory requirements for transmuting community into separate property (Fam. Code, § 852, subd. (a)). (*Id*. at p. 191.) After they separated, the wife sold the property. (*Id*. at p. 182.) In the subsequent divorce action, the husband joined the buyer as a party in order to establish that the property was a community asset. (*Ibid*.) The trial court concluded that the buyer was a bona fide purchaser taking title free of any claim that the property was community property. (*Ibid*). Affirming, the appellate court concluded that under the "'form of title'" presumption, the beneficial interest in the property belonged solely to the wife, notwithstanding the general presumption that property acquired during a marriage is community property and the noncompliance with the statutory transmutation requirements. (*Id*. at pp. 190-192.)

Brooks is distinguishable, as it involved the application of the "form of title" presumption to property acquired by a spouse during a marriage, not to property held by a third party for the benefit of a married couple. Furthermore, the vitality of *Brooks* is questionable, as our Supreme Court has overruled the determination in *Brooks* regarding the statutory transmutation

requirements. (*In re Marriage of Valli, supra,* 58 Cal.4th at p. 1405.)[7] Accordingly, appellants have shown no error in the trial courts' ruling relating to the "form of title" presumption.

2. *Adequacy of Complaint*

Appellants contend that Jung Sook's complaint against Nelson failed to state a valid claim, arguing that constructive trust is not a cause of action. We reject the contention, as the complaint adequately stated a claim for the imposition of a resulting trust. As explained in *Norman v. Burks* (1949) 93 Cal.App.2d 687, 691, "a complaint pleads sufficient ultimate facts to support findings and judgment of a resulting trust, even if a resulting trust is not expressly alleged, or if the complaint is

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[7] The remaining cases upon which appellants rely are similarly distinguishable, as each examined the application of the "form of title presumption" to property acquired by, or transferred between, spouses during their marriage. (*Gudelj v. Gudelj* (1953) 41 Cal.2d 202, 212 [because married couple took title to their home as joint tenants, they owned it as such, even though community funds paid for the home]; *In re Marriage of Fossum* (2011) 192 Cal.App.4th 336, 344-345 [wife overcame "form of title" presumption by showing that husband exercised undue influence over her when she executed quitclaim deed transferring house to husband in his name only]; *Haines*, *supra*, 33 Cal.App.4th at pp. 296-297 [holding that within the context of interspousal property transfers, the "form of title" presumption is overcome by a showing of undue influence]; *In re Marriage of Broderick* (1989) 209 Cal.App.3d 489, 497 [quitclaim deed executed by married couple transferring title to house to husband in his name alone rendered house his separate property]; *In re Marriage of Kahan* (1985) 174 Cal.App.3d 63, 69 [same]; *In re Fadel* (Bankr. 9th Cir. 2013) 492 B.R. 1, 11-12 [house was husband's separate property because married couple, in acquiring it, placed title to it solely in his name].)

ambiguous or uncertain, or contains conflicting statements." Although Jung Sook's complaint identified her claim as one for the imposition of a constructive trust, it set forth facts supporting the imposition of a resulting trust. Accordingly, the complaint was sufficiently pleaded to support the trial court's ruling.

3. *Statute of Frauds*

Appellants contend that Jung Sook's claim fails under the statute of frauds because there is no written agreement requiring Nelson to hold the property for the benefit of Jung Sook and Douglas or reconvey it to them (Civ. Code, § 1624, subd. (a)). However, because a resulting trust is "a creature of equity" implied by operation of law (*Calistoga Civic Club v. City of Calistoga* (1983) 143 Cal.App.3d 111, 117-118), the statute of frauds is inapplicable to a claim for a resulting trust. (*Jones v. Gore* (1956) 141 Cal.App.2d 667, 673; *Melickian v. Halstead* (1953) 121 Cal.App.2d 469, 472-473.)

4. *Statute of Limitations*

Appellants contend that Jung Sook's claim is time-barred. We disagree. "The applicable statute of limitations on an action to establish a resulting trust is the four-year statute found in Code of Civil Procedure section 343. [Citation.] The statute of limitations does not begin to run against a voluntary resulting trust in the absence of repudiation by the trustee, that is, until demand has been made upon the trustee and the trustee refuses to account or convey. [Citation.]" (*Estate of Yool* (2007) 151 Cal.App.4th 867, 875 (*Yool*).)

Here, the trial court's findings establish the existence of a voluntary resulting trust, that is, a trust in which "one, in good faith, acquires title to property belonging to another." (*Yool*, *supra*, 151 Cal.App.4th at p. 874, italics omitted.) Although the court did not determine when Nelson first "refuse[d] to account or

convey" (*id*. at p. 875), it expressly found that Jung Sook did not discover the lease agreement -- under which Nelson purportedly acted as landlord -- until 2014, after Jung Sook commenced the marital dissolution action. In view of that finding, the court reasonably rejected appellants' contention that the claim was time-barred.

Appellants assert that no later than 2006, Jung Sook knew that Nelson refused to convey the property to her. However, although Douglas testified that in 2006, he told Jung Sook that Nelson owned the property when she asked that her name be put on the title, Jung Sook denied that any such conversation took place. For that reason, the trial court was not compelled to infer that the limitations period began to run in 2006. In sum, the applicable statute of limitations did not foreclose Jung Sook's claim.

5. *Unclean Hands*

Appellants contend that under the doctrine of unclean hands, Jung Sook was precluded from seeking equitable relief because the parties are in pari delicto. They argue that Jung Sook fraudulently concealed that she and Douglas owned the property when Nelson secured the purchase loan in his own name and when she completed tax returns and other documents relating to the furniture business. For the reasons discussed below, we reject the contention.

Under the doctrine of unclean hands, "[a] court will neither aid in the commission of a fraud by enforcing a contract, nor relieve one of two parties to a fraud from its consequences, where both are *in pari delicto*." (13 Witkin, Summary of Cal. Law (11th ed. 2017) Equity, § 9, p. 283.) "In pari delicto means, '[i]n equal fault; equally culpable or criminal; in a case of equal fault or

guilt.'" (*Jacobs v. Universal Development Corp.* (1997) 53 Cal.App.4th 692, 699.)

Ordinarily, the doctrine of unclean hands applies when the plaintiff's wrongful conduct is injurious to the defendant. "'The essence of the "clean hands" doctrine is not that the plaintiff's hands are dirty but "that the manner of dirtying renders inequitable the assertion of such rights against the defendant."' [Citation.] 'It is not every wrongful act, nor even every fraud, which prevents a suitor in equity from obtaining relief.' [Citation.] 'It is settled that the act upon which equity may refuse relief to a plaintiff because he does not come into court with clean hands must prejudicially affect the rights of the person against whom the relief is sought so that it would be inequitable to grant such relief.' [Citation.] 'It must have been conduct which, if permitted, inequitably affects the relationship between the plaintiff and the defendant.' [Citations]." (*Martin v. Kehl* (1983) 145 Cal.App.3d 228, 239-240, fn.1)

Furthermore, the in pari delicto rule is not applied in a mechanical manner. As explained in *Norwood v. Judd* (1949) 93 Cal.App.2d 276, 288-289 (*Norwood*): "The rule that the courts will not lend their aid to the enforcement of an illegal agreement or one against public policy is fundamentally sound. The rule was conceived for the purposes of protecting the public and the courts from imposition. It is a rule predicated upon sound public policy. But the courts should not be so enamored with the Latin phrase 'in pari delicto' that they blindly extend the rule to every case where illegality appears somewhere in the transaction. The fundamental purpose of the rule must always be kept in mind, and the realities of the situation must be considered. Where, by applying the rule, the public cannot be protected because the transaction has been completed, where no serious moral

turpitude is involved, where the defendant is the one guilty of the greatest moral fault, and where to apply the rule will be to permit the defendant to be unjustly enriched at the expense of the plaintiff, the rule should not be applied." (Italics omitted.)

An instructive application of *Norwood* is found in *Johnson v. Johnson* (1987) 192 Cal.App.3d 551 (*Johnson*). There, an elderly married couple decided to buy a house near their son. (*Id.* at p. 554.) Because the son, as a veteran, was entitled to favorable GI loan financing, he persuaded his parents to permit him to use that method to buy the house in his name, with the understanding that they would be the true owners. (*Id.* at p. 554) The parents paid virtually all the purchase costs, loan payments, and maintenance expenses. (*Id.* at pp. 554-555.) After the son's father died, his mother requested title to the house, but he refused to transfer it. (*Id.* at p. 555.)

After the trial court imposed a resulting trust, the appellate court affirmed, concluding that the "in pari delicto" rule was inapplicable even though the use of GI loan financing to fund the house's purchase violated federal law. (*Johnson*, *supra*, 192 Cal.App.3d at pp. 556-557.) The court stated: "[E]ach of the *Norwood* criteria is satisfied. The transaction is completed, not executory, so application of the rule cannot protect the public except by example. No serious moral turpitude is involved on the part of plaintiff. Instead, the 'one guilty of the greatest moral fault' clearly is defendant. . . . Finally, application of the in pari delicto rule in this case would unjustly enrich defendant by allowing him to reap the full benefits of any appreciation in the value of the house . . . ." (*Johnson*, *supra*, at p. 557.)

In view of the facts found by the trial court, it did not err in imposing a resulting trust. Jung Sook's conduct in permitting Nelson to buy the property in his own name cannot reasonably be

regarded as injurious to Nelson or Douglas, as the three parties voluntarily devised the plan to deal with Douglas's bad credit and tax liens. Although we do not condone lack of candor in loan applications and tax documents, "the transaction has been completed" because the debt incurred to buy the property has been fully satisfied (*Norwood*, *supra*, 93 Cal.App.2d at p. 289); no serious moral turpitude is evident, as the trial court found that Douglas and Jung Sook "paid all of the mortgage, property tax, and . . . other payments associated with [the property]."[8] Under the circumstances, applying the "in pari delicto" rule would result only in the unjust enrichment of Douglas and Nelson, at the expense of Jung Sook. Accordingly, imposing the resulting trust was not improper.[9]

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[8] In an apparent effort to show that Jung Sook's conduct was egregious, appellants contend she contravened several federal laws, arguing that Keystone's federal tax returns filed after 2008 contain fraudulent deductions for rent payments made to Nelson. However, as Jung Sook denied any knowledge of the purported lease agreement with Nelson, and also denied that the claimed payments were to Nelson, the trial court could reasonably reject that contention.

[9] In a related contention, appellants maintain that the trial court's ruling must be reversed because it enforces an illegal agreement. As a resulting trust is an equitable remedy not founded on an agreement (see pt. B.3., *ante*), the contention fails for the reasons set forth above.

DISPOSITION

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

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

MANELLA, P. J.

We concur:

COLLINS, J.

MICON, J.*

*Judge of the Los Angeles County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.