Filed 10/2/19 Masajedian v. L.A. Community College Dist. CA2/2

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

SIMAALSADAT MASAJEDIAN, Plaintiff and Appellant, v. LOS ANGELES COMMUNITY COLLEGE DISTRICT et al., Defendants and Respondents.	B294379 (Los Angeles County Super. Ct. No. BC650471)

APPEAL from a judgment of the Superior Court of Los Angeles County. Monica Bachner, Judge. Affirmed.

Simaalsadat Masajedian, in pro. per., for Plaintiff and Appellant.

Leal Trejo and Arturo N. Fierro for Defendants and Respondents.

In a rambling and largely unintelligible brief, plaintiff and appellant Simaalsadat Masajedian challenges a judgment entered in favor of defendants and respondents Los Angeles Community College District (LACCD), Eric Kim, Marvin Martinez, Armando Rivera-Figueroa, Maria Guadalupe Garcia, Kirk N. Olsen, and Jeremy P. Allred following the trial court's order sustaining defendants' demurrer to plaintiff's second amended complaint (SAC) without leave to amend.

We affirm the judgment.

FACTUAL[1] AND PROCEDURAL BACKGROUND

On February 14, 2017, plaintiff initiated this action against defendants.

On June 19, 2018, plaintiff filed the SAC, the operative pleading. The SAC alleges eight causes of action for promissory estoppel and violation of the California Code of Regulations and eight causes of action for civil conspiracy.

On August 3, 2018, plaintiff filed a statement of disqualification of the trial court judge. That same day, the trial court struck the statement of disqualification on the grounds that it was untimely and demonstrated no legal grounds for disqualification.

On August 20, 2018, defendants demurred to the SAC, arguing in part that plaintiff failed to allege facts sufficient to sustain her claims. Plaintiff opposed the demurrer. After taking

---

[1] "Because this matter comes to us on demurrer, we take the facts from plaintiff's [SAC], the allegations of which are deemed true for the limited purpose of determining whether plaintiff has stated a viable cause of action. [Citation]." (*Stevenson v. Superior Court* (1997) 16 Cal.4th 880, 885.)

the matter under submission, the trial court sustained defendants' demurrer without leave to amend. Judgment of dismissal was entered in favor of defendants, and plaintiff timely appealed.

DISCUSSION

The major problem with plaintiff's appeal lies in her opening brief. As another court observed in describing a similarly inadequate brief, "[i]ndeed, this document is strongly reminiscent of those magazine puzzles of yesteryear where the reader was challenged to 'guess what is wrong with this picture.'" (*People v. Dougherty* (1982) 138 Cal.App.3d 278, 280.)

It is well-established that a trial court judgment is "'*presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and error must be affirmatively shown. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error.' [Citations.]" (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.)

Plaintiff has not overcome this burden. Issues are raised that are not thoroughly flushed out or supported by record citations and/or legal authority. (*Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 852 [appellant bears the burden of supporting a point with reasoned argument]; *County of Sacramento v. Lackner* (1979) 97 Cal.App.3d 576, 591 [appellant must present argument on each point made]; *Guthrey v. State of California* (1998) 63 Cal.App.4th 1108, 1115 [appellate court is not required to make an independent, unassisted search of the appellate record].) We decline to consider the issues raised in plaintiff's opening brief that are not properly presented or sufficiently developed to be cognizable, and we treat them as

waived. (*People v. Stanley* (1995) 10 Cal.4th 764, 793; *People v. Turner* (1994) 8 Cal.4th 137, 214, fn. 19; *In re David L.* (1991) 234 Cal.App.3d 1655, 1661; *Mansell v. Board of Administration* (1994) 30 Cal.App.4th 539, 545–546.) Plaintiff's election to act as her own attorney on appeal does not entitle her to any leniency as to the rules of practice and procedure. (*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984–985; *Gamet v. Blanchard* (2001) 91 Cal.App.4th 1276, 1284; *Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246–1247.)

With these principals in mind, and ignoring the hyperbole and tone of plaintiff's appellate briefs, we have attempted to address the merits of the issues raised by plaintiff.

I. Standard of review

"Our Supreme Court has set forth the standard of review for ruling on a demurrer dismissal as follows: 'On appeal from a judgment dismissing an action after sustaining a demurrer without leave to amend, the standard of review is well settled. The reviewing court gives the complaint a reasonable interpretation, and treats the demurrer as admitting all material facts properly pleaded. [Citations.] The court does not, however, assume the truth of contentions, deductions or conclusions of law. [Citation.] The judgment must be affirmed "if any one of the several grounds of demurrer is well taken. [Citations.]" [Citation.] However, it is error for a trial court to sustain a demurrer when the plaintiff has stated a cause of action under any possible legal theory. [Citation.] And it is an abuse of discretion to sustain a demurrer without leave to amend if the plaintiff shows there is a reasonable possibility any defect identified by the defendant can be cured by amendment.

[Citation.]' [Citations.]" (*Payne v. National Collection Systems, Inc.* (2001) 91 Cal.App.4th 1037, 1043–1044.)

II. The trial court properly sustained defendants' demurrer to the SAC without leave to amend

Plaintiff seems to set forth two primary arguments.

First, plaintiff asserts that the trial judge had no authority to rule on defendants' demurrer because she had been recused and/or disqualified prior to the time of the trial court order. The problem with plaintiff's argument is that Judge Bachner was never "recused." While plaintiff did file a challenge to Judge Bachner, the trial court properly struck that statement of disqualification.

Second, plaintiff argues that her SAC alleges sufficient facts to state a claim. Her SAC alleges claims for promissory estoppel and conspiracy. "The elements of promissory estoppel are (1) a promise, (2) the promisor should reasonably expect the promise to induce action or forbearance on the part of the promisee or a third person, (3) the promise induces action or forbearance by the promise or a third person (which we refer to as detrimental reliance), and (4) injustice can be avoided only by enforcement of the promise. [Citations.]" (*West v. JPMorgan Chase Bank, N.A.* (2013) 214 Cal.App.4th 780, 803.)

Here, the SAC fails to allege facts to support each of these requisite elements. She does not allege what promises were made to her, who made those alleged promises, and how she relied upon those promises. Instead, her lengthy SAC is replete with arguments and conclusions that do not give rise to a viable cause of action.

Plaintiff's claims for conspiracy fail as well. "Civil conspiracy is not an independent cause of action. [Citations.]

Instead, it is a theory of co-equal liability under which certain defendants may be held liable for 'an independent civil wrong' [citations] committed by others. A participant in the conspiracy 'effectively adopts as his or her own the torts of other coconspirators within the ambit of the conspiracy.' [Citation.] ""The elements of an action for civil conspiracy are the formation and operation of the conspiracy and damage resulting to plaintiff from an act or acts done in furtherance of the common design. . . . In such an action the major significance of the conspiracy lies in the fact that it renders each participant in the wrongful act responsible as a joint tortfeasor for all damages ensuing from the wrong, irrespective of whether or not he was a direct actor and regardless of the degree of his activity."" [Citation.] "'The essence of the claim is that it is merely a mechanism for imposing vicarious liability . . . . Each member of the conspiracy becomes liable for all acts done by others pursuant to the conspiracy, and for all damages caused thereby.'" [Citation.] [¶] Under a conspiracy theory of recovery, liability depends on the actual commission of a tort. [Citations.]" (*Navarrete v. Meyer* (2015) 237 Cal.App.4th 1276, 1291.)

As set forth above, plaintiff has not adequately pled a cause of action for promissory estoppel. Absent an underlying tort, her claims for conspiracy fail as a matter of law.

DISPOSITION

The judgment is affirmed. Defendants are entitled to costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, Acting P. J.
ASHMANN-GERST

We concur:

_____, J.
CHAVEZ

_____, J.
HOFFSTADT