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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

DAVID S. VAFA,

Plaintiff and Appellant,

v.

RAY R. VAFA,

Defendant and Respondent.

B280707

(Los Angeles County
Super. Ct. No. SC126154)

APPEAL from a judgment of the Superior Court of Los Angeles County, Lisa Hart Cole, Judge. Affirmed.

Lewis R. Landau, for Plaintiff and Appellant.

Richard T. Baum, for Defendant and Respondent.

Two brothers, David Vafa and Ray Vafa, went into business together. When David became involved in a dissolution proceeding with his spouse, Ray persuaded him to disclaim any interest in the business for purposes of the division of community property; David then stipulated that he had no interest in the business, and the community was divided accordingly. David now asserts that he is entitled to an interest in the business. The trial court sustained Ray's demurrer to David's complaint without leave to amend. We affirm.

FACTUAL AND PROCEDURAL SUMMARY

A. The First Amended Complaint

David Vafa's¹ First Amended Complaint, filed on September 30, 2016, sought to wind up a partnership, impose a constructive trust, and obtain declaratory relief, in connection with a business he formed with his brother Ray Vafa in 1986. According to the complaint, each brother owned a 50 percent interest in the business, from which each drew a salary and whose profits were invested in various assets, including real estate.

In 1988, the partnership purchased real property located at 2022 S. Robertson Boulevard in Los Angeles; the brothers took title as tenants-in-common. In 1991, the partnership purchased another parcel of real property located at 2868 S. Robertson Boulevard, the brothers again taking title as tenants-in-common. Other investments were made over time; the records of those investments are in Ray's possession and control.

¹ Because the parties share the same last name, we will refer to them by their first names for clarity.

In 2011, David and his wife entered into a stipulated judgment for the dissolution of their marriage. Paragraph 6.6 of the Judgment provided: “Petitioner and Respondent have acknowledged and the Court finds that it is the intent of the parties by virtue of this Judgment to make a complete and final settlement of their rights and obligations pertaining to the identification, characterization and confirmation of the parties’ respective community and separate property interests, spousal support, child custody, child support and any and all matters arising out of the parties’ marital relationship.” In that stipulation, David specifically “warranted and represented that he has no right, title, or interest, whether present or contingent, in EuroCoach Company.”²

David’s complaint alleges that this portion of the stipulation was the result of Ray’s opposition to David’s wife obtaining any interest in, or ability to interfere with, the partnership’s business operations.

In 2015, Ray, wishing to close the business, proposed that each brother exchange his 50 percent interest in each parcel of real property, so that each would fully own one property; David refused. Later that year, Ray proposed a written severance of business relationships, with mutual releases; David again refused.

David’s complaint seeks to wind up the partnership and for an accounting; to impose a constructive trust over 50 percent of the investments and accounts of the business; and for a declaration that he has a right to a 50 percent interest in the investments and accounts.

² The partnership did business under the names Euro Coach Corp. and AutoNet Corp.

A. The Demurrer

Ray demurred to the First Amended Complaint, asserting that it did not state facts sufficient to constitute a cause of action, and that the action was barred by collateral and judicial estoppel, based on the stipulation in the dissolution proceeding. The certified copy of the judgment in the dissolution case, attached to a request for judicial notice filed with the demurrer, contains the stipulated judgment referenced in the First Amended Complaint. The stipulated judgment also disposes of David's 50 percent interest in the two pieces of real property purchased by the partnership, awarding each spouse an undivided 25 percent interest as tenants in common to each parcel.

David opposed the demurrer. On November 15, 2016, the trial court heard the matter and sustained the demurrer without leave to amend, finding that David's stipulation in the dissolution action collaterally estopped him from claiming an interest in the partnership in this action. The court entered judgment, and David appeals.

DISCUSSION

A. Standard of Review

On appeal from an order dismissing an action following the sustaining of a demurrer without leave to amend, we apply the de novo standard of review. (*Committee for Green Foothills v. Santa Clara County Bd. of Supervisors* (2010) 48 Cal.4th 32, 42; *Arce v. Childrens Hospital Los Angeles* (2012) 211 Cal.App.4th 1455, 1470.) "[W]e review the trial court's sustaining of a demurrer without leave to amend de novo, exercising our independent judgment as to whether a cause of action has been stated as a

matter of law and applying the abuse of discretion standard in reviewing the trial court's denial of leave to amend." (*McKell v. Washington Mutual, Inc.* (2006) 142 Cal.App.4th 1457, 1469.) We assume the truth of the properly pleaded factual allegations in the complaint but do not assume the truth of the contentions, deductions or conclusions of law. (*Acuna v. San Diego Gas & Electric Co.* (2013) 217 Cal.App.4th 1402, 1411; see also *Campbell v. Regents of University of California* (2005) 35 Cal.4th 311, 320.)

B. David's Claims Are Barred

The trial court sustained the demurrer, finding that David's stipulation in the marital dissolution proceeding, leading to a final judgment in that matter, collaterally estopped him from claiming an interest in the partnership in this action.

Collateral estoppel, a form of res judicata, is a doctrine of issue preclusion: it "precludes relitigation of issues argued and decided in prior proceedings." (*Lucido v. Superior Court* (1990) 51 Cal.3d 335, 341.) There are five threshold requirements for the application of the doctrine: the issue must be identical to that decided in the previous proceeding; the issue must have been actually litigated; the issue must have been necessarily decided; the decision in the prior proceeding must be both final and on the merits; and the party against whom issue preclusion is asserted must be the same as, or in privity with, the party in the prior proceeding. (*DKN Holdings LLC v. Faerber* (2015) 61 Cal.4th 813, 827; *Lucido, supra*, 51 Cal.3d at p.341.)³ All of these

³ The underlying purpose of the doctrine must also be kept in mind: "[I]n deciding whether to apply collateral estoppel, the court must balance the rights of the party to be estopped against

requirements were met here: David is the party in both proceedings; the issue of ownership in the partnership is the same, and is necessary to the decision in both proceedings; and the judgment in the prior proceeding is final. David asserts, however, that the stipulation does not demonstrate that he intended to be bound by his position on ownership, and, accordingly, it does not estop him from making inconsistent claims in this action. In doing so, he misreads relevant authority.

In *California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658 (CSAA), the Supreme Court considered the potential collateral estoppel effect of a stipulated judgment. The Court concluded that “a stipulated judgment may properly be given collateral estoppel effect, at least when the parties manifest an intent to be collaterally bound by its terms.” (*Id.* at p. 664.) While the Court noted a split among states with respect to this issue, it determined that it need not resolve that issue because “by specifically stipulating to the issue of liability, the parties intended the ensuing judgment to collaterally estop further litigation on that issue. Were their intent otherwise, the parties easily could have expressly restricted the scope of the agreement. (See, e.g., *Ellena v. State of California* (1977) 69 Cal.App.3d 245, 260 [138 Cal.Rptr. 110].)” (*Id.* at p. 665, fn. 2)

Other authority confirms that a party may not freely disregard the impact of a stipulation for judgment, especially

the need for applying collateral estoppel in the particular case, in order to promote judicial economy by minimizing repetitive litigation, to prevent inconsistent judgments which undermine the integrity of the judicial system, or to protect against vexatious litigation. [Citations].” (*Johnson v. GlaxoSmithKline, Inc.* (2008) 166 Cal.App.4th 1497, 1508.)

when, as here, the parties make clear their intent to resolve all issues pertaining to their relationship. While it is correct that the trial court in the marital dissolution proceeding did not hear evidence and adjudicate a contested position, it is nonetheless proper to apply collateral estoppel “if the party to be bound agreed expressly or impliedly to submit an issue to prior adjudication [citations] and had a full and fair opportunity to litigate.” (*Ayala v. Dawson* (2017) 13 Cal.App.5th 1319, 1327 [applying collateral estoppel to default judgment after motion to quash in unlawful detainer action]; *Roos v. Red* (2005) 130 Cal.App.4th 870, 880 [collateral estoppel can be applied where party had full and fair opportunity to litigate the issue]; *In re Marriage of Buckley* (1982) 133 Cal.App.3d 927, 935 [stipulated judgment in marital dissolution was judgment on merits for collateral estoppel]; *Ellena, supra*, 69 Cal.App.3d at p. 260 “[a] stipulated judgment normally concludes or determines all matters put into issue by the pleadings, unless the parties agree to restrict its scope by expressly withdrawing an issue from that judgment.”].)

In the marital dissolution action, David expressly put at issue the question of his ownership interest in the partnership and its assets; the resolution of the issue, which included his stipulation of no interest, and the division of real property, expressly determined this issue. Thus, far from withdrawing the question of his interest in the partnership from the judgment, he expressly stipulated both that it would be determined, and how it would be determined. Had there been a dispute, or had he

wished to assert a different interest, he had an opportunity to contest it at the court; he choose not to.⁴

C. The Requirements of Issue Preclusion Are Appropriately Resolved By Demurrer In This Case

David argues that, in any event, the issue of his intent cannot properly be determined on demurrer, citing *Landeros v. Pankey* (1995) 39 Cal.App.4th 1167. In that case, arising out of the stipulated judgment in an unlawful detainer case, plaintiffs sought damages in a separate action for breach of the warranty of habitability. Defendants demurred, asserting collateral estoppel barred the second action. The court of appeal reversed the trial court's dismissal of the action.

In its analysis, the reviewing court explained that the stipulated judgment in the unlawful detainer action was silent as to the habitability issue, and contained no language indicating the parties intended the settlement to resolve all matters between the parties relating to the lease. (*Landeros, supra*, 39 Cal.App.4th at pp. 1171-1172.) As a result, the court found that the defendants had failed to show, as a matter of law, that the parties had intended to settle all claims; while this precluded demurrer, it would not bar defendants, on remand, from

⁴ David cites additional authority to support his argument that application of issue preclusion is improper here, and cannot be resolved on demurrer. Those authorities do not support his argument on the facts of this case. For example, in *Ferraro v. Camarlinghi* (2008) 161 Cal.App.4th 509, 540-542, which David cites for the principle that collateral estoppel is not proper where there is a stipulated judgment, the court refused to apply the doctrine against a party who had been excluded from the stipulation. The facts here are to the contrary.

demonstrating such intent. Because, in *Landeros*, the parties' intent was ambiguous, such extrinsic evidence was proper and demurrer was not.

Here, in contrast, there is no ambiguity. The parties clearly and specifically documented their intention to resolve all issues pertaining to the marriage, including, but not limited to, the assets of the spouses and the community. The stipulated judgment sufficiently demonstrated David's intention to be bound, and provides the requisite showing for the application of collateral estoppel to bar this action.⁵

D. Collateral Estoppel Is Properly Invoked In This Case

David also argues that because Ray was not a party to the marital dissolution proceeding, it is improper to allow him to invoke collateral estoppel. This is incorrect: "issue preclusion can be invoked by one not a party to the first proceeding. The bar is asserted against a party who had a full and fair opportunity to litigate the issue in the first case but lost. [Citation.] The point is that, once an issue has been finally decided against such a party, that party should not be allowed to relitigate the same issue in a new lawsuit. [Citations.] Issue preclusion operates 'as a shield against one who was a party to the prior action to prevent' that party from relitigating an issue already settled in the previous case." (*DKN Holdings, supra*, 61 Cal.4th at pp. 826-827.)

⁵ In light of our resolution of this appeal, we need not address the parties' alternative arguments concerning the application of judicial estoppel to this matter.

Finally, application of collateral estoppel in this case serves the purpose of the doctrine by preventing David from withholding assets from his spouse, but then seeking to recover them for his own use. It promotes judicial economy by minimizing repetitive litigation, and prevents inconsistent judgments that undermine the integrity of the judicial system. (*Johnson, supra*, 166 Cal.App.4th at p. 1508.)

DISPOSITION

The judgment is affirmed. Respondent is to recover his costs on appeal.

ZELON, Acting P. J.

We concur:

SEGAL, J.

FEUER, J.*

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