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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION TWO

YOUNG IL CHO,

Plaintiff and Appellant,

v.

YOONJUNG CHO et al.,

Defendants and Respondents.

B294456

(Los Angeles County  
Super. Ct. No. BC611102)

APPEAL from a judgment of the Superior Court of  
Los Angeles County. Holly J. Fujie, Judge. Affirmed.

Young Il Cho, in pro. per., for Plaintiff and Appellant.

Law Offices of Dale J. Park and Dale J. Park for  
Defendants and Respondents.

Plaintiff and appellant Young Il Cho (plaintiff) appeals from the judgment entered in favor of defendants and respondents Yoonjung Cho and Sheldon K. Cho (collectively, defendants) in this action for breach of contract and for money had and received. We affirm the judgment.

### **BACKGROUND**

Plaintiff is Sheldon K. Cho's father and Yoonjung Cho's father-in-law. Plaintiff filed this action in February 2016, alleging that defendants breached an oral agreement to care for him during his lifetime in exchange for monetary loans totaling \$708,935. Plaintiff claimed that defendants owed him \$468,935.

The matter proceeded to a two-day bench trial. No exhibits were moved into or admitted into evidence, although the parties referred to various documents during their trial testimony. After plaintiff rested, defendants moved for judgment pursuant to Code of Civil Procedure section 631.8. The trial court granted the motion as to the breach of contract claim, finding that plaintiff failed to prove the existence of a contract.

After the trial concluded on plaintiff's remaining claim for money had and received, the trial court issued a statement of decision ruling in defendants' favor on both causes of action for money had and received and for breach of contract. The trial court stated that it had based its ruling on the breach of contract claim primarily on the testimony of plaintiff himself, and that plaintiff's trial testimony made clear that while plaintiff made several substantial monetary payments to defendants, there was never any agreement to repay plaintiff. The trial court found that defendants never expressly agreed to allow plaintiff to live with them for as long as he was alive, and that even if such an

agreement had been made it would not be enforceable under California law.

With regard to the money had and received cause of action, the trial court found that the transactions alleged in the complaint were not money had and received, as plaintiff himself testified that all of the monetary transfers were for defendants' benefit, and not for the benefit of plaintiff.<sup>1</sup>

The trial court noted in the statement of decision that it did not rely on any of the exhibits identified but not admitted into evidence during the trial. The trial court further noted that none of the exhibits had been properly authenticated or a proper foundation laid for their admission, and "that even if those documents had been properly authenticated and a proper foundation laid for their admission, they would not have provided the proper evidentiary basis for a different result than that reached herein."

Judgment was entered in defendants' favor on November 29, 2018. This appeal followed.

### **DISCUSSION**

In his appellate brief, plaintiff challenges only that portion of the judgment concerning his breach of contract claim. He offers no argument or analysis with respect to his cause of action for money had and received, and accordingly has forfeited any

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<sup>1</sup> The trial court further found that while there was evidence that defendants had taken funds that belonged to plaintiff, consisting of plaintiff's Social Security disability payments, that transaction was not covered by the money had and received cause of action alleged in the complaint.

appellate challenge based on that cause of action. (*Frittelli, Inc. v. 350 North Canon Drive, LP* (2011) 202 Cal.App.4th 35, 41.)

Plaintiff contends the trial court erred in finding that no enforceable contract existed. In general, “[w]here the existence of a contract is at issue and the evidence is conflicting or admits of more than one inference, it is for the trier of fact to determine whether the contract actually existed.” (*Bustamante v. Intuit, Inc.* (2006) 141 Cal.App.4th 199, 208.) We review the trial court’s factual finding on this issue under the substantial evidence standard. (*Ibid.*) Under that standard, we must review the record in the light most favorable to defendants and resolve all inferences and conflicts in the evidence in support of the judgment. (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 334.)

Substantial evidence supports the trial court’s finding that no valid contract existed. Plaintiff admitted during his testimony at trial that he had no evidence of any oral agreement between him and defendants. Plaintiff further admitted that defendants never promised to repay any monetary sums plaintiff paid to them. Sheldon Cho similarly testified that he never entered into any agreement with plaintiff to support plaintiff in exchange for monetary payments, and never promised to repay any of the monetary sums plaintiff gave him.

Plaintiff refers in his appellate brief to documents that were never admitted into evidence in the trial court below and attaches the referenced documents as exhibits to his appellate brief. We disregard those documents and any arguments based on documents that are not part of the record on appeal. (*Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.* (2013) 215 Cal.App.4th 1013, 1066, fn. 35.)

We also disregard new theories of recovery, such as promissory estoppel and public policy, that plaintiff raises for the first time on appeal. ““‘[I]t is fundamental that a reviewing court will ordinarily not consider claims made for the first time on appeal which could have been but were not presented to the trial court.’ Thus, ‘we ignore arguments, authority, and facts not presented and litigated in the trial court.’ . . . [Citations.]” [Citation.]” (*Premier Medical Management Systems, Inc. v. California Ins. Guarantee Assn.* (2008) 163 Cal.App.4th 550, 564.)

Plaintiff fails to establish any basis for reversing the judgment.

#### **DISPOSITION**

The judgment is affirmed. Defendants are awarded their costs on appeal.

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\_\_\_\_\_, J.  
CHAVEZ

We concur:

\_\_\_\_\_, P. J.  
LUI

\_\_\_\_\_, J.  
HOFFSTADT