Filed 10/29/12 Keating v. Bank of America CA2/6

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

DORIS KEATING, Plaintiff and Appellant, v. BANK OF AMERICA, N.A., et al., Defendants and Respondents.	2d Civil No. B236303 (Super. Ct. No. 56-2009-00355857-CU-FR-VTA) (Ventura County)

Washington Mutual Bank (WaMu) loaned appellant Doris Keating a total of $2,762,000, secured by deeds of trust on two properties. After Keating stopped making loan payments in October 2008, WaMu's successors-in-interest initiated nonjudicial foreclosure proceedings. Keating sued to enjoin the foreclosures.

Keating challenges the trial court's entry of summary judgment in favor of respondents JPMorgan Chase Bank, N.A. (JPMorgan), Bank of America, National Association (BofA) and Chase Home Finance LLC (Chase Home Finance).[1] We conclude she has waived this challenge and affirm the judgment.

[1] JPMorgan appears in this action as the acquirer of certain assets and liabilities of WaMu from the Federal Deposit Insurance Corporation (FDIC) acting as receiver, for itself and as successor by merger to Chase Home Finance. BofA appears as successor by merger to LaSalle Bank, National Association, as trustee for WaMu Mortgage Pass-Through Certificates Series 2007-HY07 Trust.

FACTUAL AND PROCEDURAL BACKGROUND

In 2007, WaMu loaned Keating $1,302,000 to purchase real property located at 2278 Grand Avenue, Fillmore, California (Fillmore Property). The loan was secured by a deed of trust on the Fillmore Property.

WaMu also loaned Keating $1,250,000 to refinance the existing loan on real property located at 11265 Steinhoff Road, Frazier Park, California (Frazier Park Property). That loan and a $210,000 line of credit were secured by deeds of trust on the Frazier Park Property.

On September 25, 2008, the Office of Thrift Supervision closed WaMu and appointed the FDIC as receiver. That same day, JPMorgan acquired certain WaMu assets, including the Fillmore and Frazier Park notes and deeds of trust. JPMorgan assigned to BofA its interest in the $1,250,000 deed of trust on the Frazier Park Property. At all relevant times, respondent Chase Home Finance serviced the Fillmore and Frazier Park loans.

Keating ceased making payments on the loans in October 2008. In May 2009, the trustee instituted nonjudicial foreclosure proceedings as to both properties. At that time, the arrearages totaled approximately $96,428.83.

On August 20, 2009, Keating filed this action against JPMorgan, BofA, Chase Home Finance and others seeking damages as well as an injunction preventing the foreclosure sales. The third amended complaint alleged 14 causes of action for fraud (multiple claims), negligent misrepresentation, negligence, breach of fiduciary duty, violation of unfair competition law, declaratory relief, breach of contract, promissory estoppels, breach of third party obligations and breach of the covenant of good faith and fair dealing.

JPMorgan, BofA and Chase Home Finance (collectively respondents) demurred to the third amended complaint. The trial court sustained the demurrers without leave to amend on all causes of action except the thirteenth cause of action (breach of third party beneficiary obligations) as to Chase Home Finance and the eighth

(unfair business practices), ninth (declaratory relief) and tenth (declaratory relief) causes of action as to JPMorgan and BofA.

Respondents moved for summary judgment on the remaining four causes of action. The trial court granted the motion, concluding the undisputed evidence "established that plaintiff [Keating] made no payments on her loan after servicing rights to that loan were acquired by Chase [Home Finance], and has no evidence to establish that it failed to credit timely payments, misapplied payments or charged improper fees." The trial court inadvertently omitted JPMorgan and BofA from the summary judgment ruling. After respondents advised the trial court of the omission, the court reconsidered the matter and entered summary judgment in favor of all respondents.

Keating appeals in propria persona. We denied her petition for a writ of supersedeas to stay the pending foreclosure sales.[2]

DISCUSSION

We review the trial court's grant of summary judgment de novo. (*Capri v. L.A. Fitness Intern., LLC* (2006) 136 Cal.App.4th 1078, 1082.) Even when our standard of review is de novo, however, the scope of review is limited to issues that have been adequately raised and are supported by analysis. (*Reyes v. Kosha* (1998) 65 Cal.App.4th 451, 466, fn. 6.) The burden of demonstrating error rests squarely on the appellant. (*Winograd v. American Broadcasting Co.* (1998) 68 Cal.App.4th 624, 631-632.) When an appellant raises an issue "but fails to support it with reasoned argument and citations to authority, we treat the point as waived. [Citations.]" (*Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784-785; see *Kim v. Sumitomo Bank* (1993) 17 Cal.App.4th 974, 979 [appellate court not required to consider points not supported by citation to authorities or record].) We find this is an appropriate case in which to apply the waiver rule.

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[2] We also denied Keating's motion requesting recusal of this court and her motion requesting that we impose legal and financial sanctions against respondents, refer respondents to the district attorney for criminal prosecution, refer respondents' attorneys to the California State Bar for disbarment or suspension and strike respondents' brief.

Keating candidly states in her opening brief that "[s]he is not here to argue the merits of the case that have been litigated ad nauseum, but rather to direct the Courts [*sic*] attention to four outstanding examples of Judicial Error which [significantly] affected a fair and just outcome of the case (which has been dismissed on a Judgment for a Motion for Summary Judgment)." Although Keating believes these purported errors are significant, they have no bearing on the merits of the trial court's summary judgment ruling. Instead of making an effort to prove the trial court was wrong in granting summary judgment, Keating challenges respondents and this court to prove the trial court was right. (*People v. Dougherty* (1982) 138 Cal.App.3d 278, 283.) That is not our burden. (*Del Real v. City of Riverside* (2002) 95 Cal.App.4th 761, 768.)

Keating's first claim of error appears to involve the trial court's entry of default against Chase Home Finance in July 2010, calling it "the case of the vanquished Default Judgment." The record confirms, however, that on March 14, 2011, the trial court granted Chase Home Finance's unopposed motion to set aside that default. There is no evidence of a "missing" default judgment.

Her second claim of error concerns Chase Home Finance's removal of the case to federal court in October 2009. She asserts that because a presumption exists against removal jurisdiction, the court must strictly construe the federal removal statute and resolve all doubts in favor of a remand. This contention is moot because the matter was remanded to state court in January 2010.

Keating's third claim of error discusses a statement made by respondents' counsel at the April 21, 2011, hearing on Chase Home Finance's demurrer to the third amended complaint. Counsel appropriately reminded the trial court that it previously had ruled on JPMorgan and BofA's demurrer to the same causes of action and requested "judicial consistency" in the two rulings. This request does not suggest judicial error.

Keating's final claim of error involves the trial court's inadvertent omission of JPMorgan and BofA from its original order granting summary judgment. As discussed above, the trial court promptly corrected this oversight. Once again, no evidence of error exists.

In her reply brief, Keating asserts that respondents' motion to augment the record on appeal includes copies of a demurrer and request for judicial notice that were not filed in the trial court. Shortly before oral argument, respondents filed a notice of errata acknowledging the clerical error and attaching correct versions of the documents. Keating has not demonstrated any prejudice from the error. The augmented clerk's transcript includes the correct demurrer, and the documents attached to the request for judicial notice appear elsewhere in the record.

Keating also references a purported discrepancy in the demurrer rulings. The trial court overruled JPMorgan and BofA's demurrer to the eighth, ninth and tenth causes of action, but sustained Chase Home Finance's demurrer to those same causes of action without leave to amend. As respondents' counsel noted during oral argument, the rulings are consistent because the third amended complaint did not name Chase Home Finance as a defendant in those causes of action.

Appellate review begins with the presumption that the trial court's judgment is correct, and the burden is on the appellant to overcome that presumption of correctness and show reversible error. (*State Farm Fire & Casualty Co. v. Pietak* (2001) 90 Cal.App.4th 600, 610.) Although Keating seeks reversal of the summary judgment, she deliberately avoids addressing the merits of that ruling. We are not obliged to develop Keating's arguments for her. (*Dills v. Redwoods Associates, Ltd.* (1994) 28 Cal.App.4th 888, 890, fn. 1.) Nor are we required to conduct an independent, unassisted study of the record in search of error or grounds to support a summary judgment. (*Del Real v. City of Riverside, supra*, 95 Cal.App.4th at p. 768.) It the appellant's duty to refer the reviewing court to the portion of the record which supports the contentions on appeal. (*Ibid.*; *Guthrey v. State of California* (1998) 63 Cal.App.4th 1108, 1115.) Keating has not satisfied this duty.

We recognize Keating appears before us in propria persona. While this may explain certain deficiencies in her briefs, it does not excuse them. (*Burnete v. La Casa Dana Apartments* (2007) 148 Cal.App.4th 1262, 1267 ["'[T]he in propria persona litigant is held to the same restrictive rules of procedure as an attorney'"].) Keating's self-

represented status does not relieve her of her burden on appeal. (See *Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984-985; see also *Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246-1247.) In the absence of any effort to address the merits of the judgment on appeal, Keating's contention that the trial court erred by granting respondents' motion for summary judgment is deemed waived. (*Guthrey v. State of California, supra,* 63 Cal.App.4th at pp. 1115-1116; *People v. Dougherty*, *supra*, 138 Cal.App.3d at p. 283.)

The judgment is affirmed. Respondents shall recover their costs on appeal.

NOT TO BE PUBLISHED.

PERREN, J.

We concur:

GILBERT, P.J..

YEGAN, J.

Henry J. Walsh, Judge

Superior Court County of Ventura

Doris Keating, in pro. per., for Appellant.

AlvaradoSmith, John M. Sorich, S. Christopher Yoo, LaShon Harris for Respondents.