

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(a). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115(a).

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

REBECCA ARIAS,

Plaintiff and Appellant,

v.

LUPE KARDOULIAS,

Defendant and Respondent.

B271724

Los Angeles County
Super. Ct. No. BC514847

APPEAL from a judgment of the Superior Court of
Los Angeles County, Susan Bryant-Deason, Judge. Affirmed.

Rebecca Arias, in pro. per., for Plaintiff and Appellant.

Law Office of Paul H. Nankivell II and Paul H. Nankivell II
for Defendant and Respondent.

INTRODUCTION

Plaintiff Rebecca Arias appeals from a judgment entered after the trial court granted defendant Lupe Kardoulis's motion for summary judgment.¹ We affirm.

FACTS AND PROCEDURAL BACKGROUND

1. The 2008 Litigation

Anthony Arias had three daughters: Lupe, Rebecca, and Antoinette. In 2000, Anthony inherited a parcel of real property located in Saltillo, Mexico (the Property). Anthony collected rent generated by the Property until he sold it in 2006.

In December 2007, Anthony executed a "Durable Power of Attorney" naming Lupe as his attorney in fact. In July 2008, Lupe, acting as Anthony's guardian ad litem, obtained a three-year elder-abuse restraining order on Anthony's behalf, prohibiting Rebecca from abusing or otherwise contacting Anthony.

In November 2008, Rebecca filed a complaint against Anthony and the family's trust, seeking to quiet title and to collect rental income and the proceeds from the sale of the Property. Rebecca asserted 11 causes of action including claims for conversion, money had and received, an accounting, fraud, breach of fiduciary duty, and declaratory relief.

Around December 2008, Rebecca and Anthony entered a settlement agreement. On December 13, 2008, Anthony executed a quitclaim deed transferring to Rebecca title to a parcel of property located in Los Angeles. In January 2009, Rebecca

¹ For clarity, we refer to the parties and their family members by their first names.

dismissed with prejudice her complaint against Anthony and the family's trust. Anthony died in July 2010.

2. The Underlying Lawsuit

In July 2013, Rebecca filed the operative complaint against Lupe, alleging seven causes of action: (1) conversion; (2) money had and received; (3) an accounting; (4) fraud; (5) conversion of personal property and documents; (6) breach of fiduciary duty; and (7) declaratory relief. The first, second, third, fourth, sixth, and seventh causes of action arose out of the collection of rents from, and sale of, the Property, the same transaction at issue in the lawsuit Rebecca filed against Anthony and the family's trust in November 2008. In her fifth cause of action, Rebecca alleged Lupe converted title certificates to two of Rebecca's cars.

In September 2015, Lupe filed a motion for summary judgment or, in the alternative, summary adjudication. Lupe argued all of Rebecca's claims were time-barred. Additionally, Lupe argued the claims concerning the Property were barred by res judicata because they involved the same issues raised in Rebecca's complaint against Anthony, which Rebecca had dismissed with prejudice in January 2009. Rebecca filed an opposition on January 19, 2016, two days before the scheduled hearing on Lupe's motion for summary judgment. Rebecca did not, however, submit a statement of disputed facts.

On January 21, 2016,² the court granted Lupe's motion for summary judgment, finding all of Rebecca's claims were time-

² The court's minute order is dated "01/21/15." It appears this is a typographical error as Lupe did not file her motion for summary judgment until September 2015, and the court had scheduled a hearing on Lupe's motion for January 21, 2016.

barred, and that the first, second, third, fourth, sixth, and seventh causes of action were also barred by res judicata. The court entered judgment in Lupe's favor on March 22, 2016. Rebecca filed a timely notice of appeal.

DISCUSSION

"An appealed judgment or challenged ruling is presumed correct." (*Bullock v. Philip Morris USA, Inc.* (2008) 159 Cal.App.4th 655, 685.) A judgment, therefore, will not be reversed unless error is affirmatively shown. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) "An appellant must affirmatively demonstrate error through reasoned argument, citation to the appellate record, and discussion of legal authority." (*Bullock*, at p. 685.)

"When an issue is unsupported by pertinent or cognizable legal argument it may be deemed abandoned and discussion by the reviewing court is unnecessary." (*Landry v. Berryessa Union School Dist.* (1995) 39 Cal.App.4th 691, 699–700.) A reviewing court need not consider an issue when the appellant "has presented no intelligible legal argument." (*Mansell v. Board of Administration* (1994) 30 Cal.App.4th 539, 545.) "We are not bound to develop [an appellant's] arguments for [her]. [Citation.] The absence of cogent legal argument or citation to authority allows this court to treat the contentions as waived." (*In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 830.) In addition, an appellant who fails to pinpoint evidence in the record indicating the existence of triable issues of fact will be deemed to have waived any claim that the lower court erred in granting summary judgment. (*Guthrey v. State of California* (1998) 63 Cal.App.4th 1108, 1115–1116.)

“When an appellant decides to represent [herself] in propria persona, ‘[she] is entitled to the same, but no greater, consideration than other litigants and attorneys. [Citations.]’ ” (*Bistawros v. Greenberg* (1987) 189 Cal.App.3d 189, 193.) A self-represented litigant “is held to the same restrictive procedural rules as an attorney.” (*Ibid.*)

Here, Rebecca has failed to carry her burden to affirmatively demonstrate error. First, her opening brief lacks a coherent statement of facts, does not state the nature of the action in the lower court, does not discuss the seven causes of action in her operative pleading, and does not discuss the standard of review. Second, her briefs contain no intelligible argument concerning the doctrine of res judicata. Although Rebecca contends the judgment must be reversed because her 2008 lawsuit against Anthony “is for a Quitclaim Deed” and her current lawsuit “is for an entirely different subject, and to different defendant Lupe,” she does not develop this argument. Third, other than mentioning the statutes of limitations for breach of contract claims and for actions to recover a balance due upon a mutual account, the opening brief provides no argument whatsoever on the court’s alternative ground for granting summary judgment—all of Rebecca’s claims were time-barred.³ Where an appellant seeking reversal of a summary judgment fails to present argument on an issue that provides an independent ground for summary judgment, we may presume the judgment is correct and may affirm summary judgment on this

³ Rebecca cannot salvage a forfeited argument concerning the statutes of limitations by belatedly addressing the argument in her reply brief. (*SCI California Funeral Services, Inc. v. Five Bridges Foundation* (2012) 203 Cal.App.4th 549, 573, fn. 18.)

basis alone. (See *Christoff v. Union Pacific Railroad Co.* (2005) 134 Cal.App.4th 118, 125–126.) Finally, the briefs include numerous factual assertions that are completely devoid of evidentiary support and citations to the record. As a result of these deficiencies, Rebecca has forfeited any claim of error on appeal.

DISPOSITION

The judgment is affirmed. Lupe shall recover her costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

LAVIN, J.

WE CONCUR:

EDMON, P. J.

KALRA, J.*

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