

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**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(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.
---

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re the Marriage of ROCIO  
and DAVID, JR. GIRON.

2d Civil No. B279594  
(Super. Ct. No. D354923)  
(Ventura County)

ROCIO GIRON,

Respondent,

v.

DAVID GIRON, JR.,

Appellant.

David Giron, Jr. (Husband), in pro. per., appeals from a judgment of dissolution of his marriage to Rocio Giron (Wife). Husband contends that the court erred in determining that a home in Oxnard was community property. Because the record on appeal is not adequate for a review of Husband's claim, we affirm the judgment. (*Roberson v. City of Rialto* (2014) 226 Cal.App.4th 1499, 1507.)

## **FACTUAL AND PROCEDURAL HISTORY**

During their marriage, Wife and Husband purchased a home in Oxnard. The grant deed to the Oxnard home reflects that the property was granted to “David Giron Jr., a married man as his sole and separate property.” Days later, Wife signed an interspousal transfer deed, transferring her interest in the home to Husband, “a married man as his sole and separate property.” The deed specified that the transfer of interest was “a bona fide gift and the grantor [Wife] received nothing in return.”

Five years later, Wife petitioned for dissolution of marriage. Following a court trial, the court found that the Oxnard home was community property. It ordered the home to be placed on the market for sale and that the first \$105,000 of the proceeds from the sale “shall go to [Husband], and the remainder of the proceeds shall be divided equally between Husband and Wife.” The court granted judgment of dissolution of marriage.

## **DISCUSSION**

Husband contends the trial court’s finding that the Oxnard home was community property was not supported by substantial evidence.

We presume that a judgment is correct and that the record contains evidence sufficient to support the judgment. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) The appellant has the burden of “overcoming this presumption by presenting a record that demonstrates error. Where the appellant fails to provide a reporter’s transcript, ‘it is presumed that the unreported trial testimony would demonstrate the absence of error.’ [Citations.]” (*People v. Seneca Ins. Co.* (2004) 116 Cal.App.4th 75, 80 (*Seneca Ins.*)). Moreover, an appellant who attacks a judgment based on insufficiency of evidence but

fails to provide a reporter's transcript, will be precluded from arguing sufficiency of the evidence on appeal. (See *Estate of Fain* (1999) 75 Cal.App.4th 973, 992.)

Here, the record contains a 33-page clerk's transcript, which includes a copy of the grant deed, the interspousal transfer deed, the minute order on the court trial (which does not contain the court's reasoning for its findings), the notice of entry of judgment, and a register of actions. The clerk's transcript, alone, is inadequate for us to review Husband's claim of insufficiency of evidence.

Husband failed to provide a reporter's transcript of the trial proceedings. Nor does the record contain any agreed statement (Cal. Rules of Court, rule 8.134). Without a reporter's transcript or an agreed statement, we are unable to determine whether substantial evidence supports the trial court's finding that the Oxnard home was community property. We therefore must assume that the record "would demonstrate the absence of error." [Citations.] (*Seneca Ins., supra*, 116 Cal.App.4th at p. 80.)

#### **DISPOSITION**

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

NOT TO BE PUBLISHED.

TANGEMAN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

William Q. Liebmann, Judge  
Superior Court County of Ventura

---

David Giron, Jr., in pro. per., for Appellant.

Rocio Giron, in pro. per., for Respondent.