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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

CITY OF FRESNO,

Plaintiff and Respondent,

v.

STEVE FRANK GOMEZ,

Defendant and Appellant.

F088038

(Super. Ct. No. 23CECG01270)

OPINION

APPEAL from a judgment of the Superior Court of Fresno County. D. Tyler Tharpe, Judge.

Steve Frank Gomez, in pro. per., for Defendant and Appellant.

Whitney L. Hendricks, Deputy City Attorney, for Plaintiff and Respondent.

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This matter arose from a petition filed by the City of Fresno in the Fresno County Superior Court, regarding a substandard residential property with numerous, long-standing code violations. The City of Fresno's petition sought an order appointing a receiver for the substandard property, to abate or otherwise address the violations on the property.

The superior court granted the petition and appointed a receiver. The receiver eventually sought approval from the court for the sale of the property. The court approved the sale.

Thereafter, Steve Frank Gomez, the successor in interest to the property owner, initiated this appeal from the court's order approving the sale of the property. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

This case was initiated by the City of Fresno (City) on April 5, 2023. On that date, City filed a "petition for order to abate substandard building, appointment of receiver, and orders pursuant to California Health and Safety Code" (petition or petition to appoint a receiver or petition for receivership). (Some capitalization omitted.) Attached to City's petition were numerous supporting documentary and photographic exhibits, as well as a declaration from City of Fresno Community Revitalization Specialist, Ron Becerril. The building at issue in City's petition was a residential property on North Van Buren Avenue (Van Buren house or Van Buren property) in Fresno.

The record on appeal in this matter consists of (1) City's April 5, 2023, petition and its exhibits (with the exception of the supporting declaration of Ron Becerril);¹ (2) a September 14, 2023, order of the superior court granting City's petition and appointing a receiver for the Van Buren property; and (3) a March 14, 2024, superior court order confirming the receiver's sale of the Van Buren property and related documents.²

We note that Gomez was not involved in this matter at the prefiling stage, when City investigated and conducted inspections of the Van Buren property over several

¹ Ron Becerril was the City inspector who oversaw the investigation and inspections of the Van Buren house over multiple years. His supporting declaration is not in the record on appeal.

² The record on appeal further includes Gomez's notice of appeal and his notice designating the record on appeal. In addition, City filed an augmented record consisting of the proof of service of the summons that was served on Gomez upon initiation of this matter.

years. As explained below, City identified and located Gomez, as a successor in interest to the recorded owner of the property, at the stage when it was contemplating initiating court proceedings for purposes of abating unremediated code violations at the property.

We have summarized the broader factual and procedural background of this matter, drawing mostly from City's petition and the exhibits thereto, as these make up almost the entirety of the record on appeal. Notably, City's brief does not provide a complete summary of the factual background of this action.

Background Information

City's petition for an order to appoint a receiver, filed on April 5, 2023, stated:

"This is an action brought by Petitioner, City of Fresno (City), against Respondent, Steve F. Gomez as the Successor in Interest (Successor) to Ruby Gomez (Owner), owner of the real property located at 6991 North Van Buren Avenue, Fresno, California[.] ... [City] is informed and believes, and thereon alleges that Owner and Successor have neglected the Subject Property in violation of the Fresno Municipal Code (FMC) and the California Health and Safety Code (Health and Safety Code). The Subject Property's dilapidated and substandard state endangers the health and safety of the neighborhood and general public by encouraging the presence of transients and creating numerous safety hazards within a residential community.... [¶] ... [¶] ...

"The Subject Property constitutes a public nuisance and substandard building and has been the subject of an open investigation by the City of Fresno Code Enforcement Division (Code Enforcement) since March 2019. The current Code Enforcement case was opened due to a vacant blighted building and an inhabited RV. Since then, the condition of the Subject Property has worsened and it has been confirmed the residence is substandard and unsafe, with an open and damaged septic system, and without electrical or water service. To date, there have been no efforts made by Owner or Successor to comply with any Code Enforcement correction notices. [¶] ... [¶] ...

"Owner, Ruby Gomez died on May 13, 2002, and she was the sole recorded owner.... A search of Fresno County Superior Court cases yielded no record of probate proceedings for the aforementioned recorded owner.

“... *Up until her death in June of 2022*, Janet Ochoa, who held herself out as Owner’s daughter and self reported inheritor of the Subject Property, lived at the Subject Property and was attempting to address the FMC violations, albeit unsuccessfully....

“An associate and claimed family member of Owner’s relatives has indicated that Steve F. Gomez is the grandson of Owner and held himself out to be the rightful owner of the Subject Property. A public search and confirmation from the Fresno County Parole Office indicates that Mr. Gomez is currently a California Department of Corrections (CDCR) inmate.” (Italics added.)

Numerous, Ongoing Code Violations at the Van Buren House

City’s petition contained detailed descriptions and/or lists of ongoing code violations and other documented problems at the Van Buren house, starting from April 10, 2019 (when an initial inspection was conducted) through November 2022 (by which time multiple inspections had occurred).

Furthermore, as documented in exhibits attached to City’s petition, City had issued numerous violation notices in the months and years before it filed a petition for receivership. For example, City issued a correction notice and order on August 13, 2019, listing numerous existing violations and providing photographs thereof. In addition, on April 27, 2021, City issued a notice of correction of violations, listing numerous code violations and attaching photographs. Additional violation notices were issued by City on June 22, 2021, and November 8, 2021.

A further correction notice and order was issued on February 28, 2022, listing numerous violations. The notice noted that “[a]ll violations are to be corrected by April 4, 2022,” and that “[a] final reinspection by [City] will be required for clearance of this notice.” The correction notice and order were sent by certified mail to the “OCCUPANT(s)” of the Van Buren house as well as to Ruby Gomez and Janet Ochoa, respectively, at the Van Buren house.

A final correction notice and order was issued on August 19, 2022, listing a number of violations and attaching photographs. The final correction notice and order

specified that the violations must be removed by September 6, 2022 and noted that City “will perform a reinspection to determine if corrections have been completed.” The correction notice and order further specified that failure to correct the violations within the specified timeframe would result in further action by City, including abatement by City, receivership, and/or other administrative or legal action. The correction notice and order were sent by certified mail to the “OCCUPANT(s)” of the Van Buren house as well as to Ruby Gomez and Janet Ochoa, respectively, at the Van Buren house.

As stated in City’s petition for receivership, “[i]t was around this time [that] Code [Enforcement] staff was informed [that Janet Ochoa,] who resided [at] and was the responsible party for the Property, had passed away.”

City’s Summary, Exterior Abatement Action

On October 26, 2022, Fresno Superior Court Judge Kimberly Gaab issued to City a forcible entry inspection and abatement warrant for the Van Buren property. The warrant stated: “You are hereby commanded to enter Subject Property to inspect and to abate identified public nuisances that exist within the Property, and to determine the presence and extent of violations of City of Fresno Municipal Code.” (Some capitalization omitted.) The warrant further provided: “You are authorized to enter the interior of the residence, attached or detached garages, structures, and recreational vehicles, as well as all exterior yard areas of the Subject Property to conduct a complete inspection and exterior abatement of the nuisance conditions present including, but not limited to, inoperative or illegally parked vehicles, junk and rubbish, and household materials stored outdoors.”

On November 1, 2022, pursuant to the warrant issued by the superior court, City conducted inspection and abatement actions at the Van Buren house. The abatement conducted by City consisted of boarding up all points of entry and exit at the residence to ensure it remained unoccupied. City posted a notice at the residence prohibiting

occupancy. City also took photographs of conditions at the property and documented multiple code violations.

On December 6, 2022, a post-abatement administrative hearing was held before a hearing officer. The hearing officer upheld City's action to conduct a summary abatement (boarding up of points of ingress and egress, without prior notice to property owner) due to the significant health and safety concerns at the property.

City Initiated Petition to Appoint Receiver: Applicable Law

City thereafter initiated the process of filing its petition to appoint a receiver. As clarified in its petition, "Health and Safety Code section 17960 authorizes the City to enforce the State Housing laws concerning the regulation of buildings used for human habitation, which is codified in Health and Safety Code sections 17960-17998.3." Further, "Health and Safety Code section 17980 authorizes the City to institute any action or proceeding to abate a violation or nuisance, which is an immediate threat to the health and safety of occupants or the general public." Finally, "Health and Safety Code sections 17980.6 and 17980.7(c) authorize the Court to appoint a Receiver over a nuisance building when the violations thereon are 'so extensive and of such a nature that the health and safety of occupants or the public is substantially endangered.'"

City's petition explained that the appointment of a receiver entails a two-step process leading up to the filing of a petition for appointment of a receiver. First, a notice to abate must be posted on the property and second, notice of the forthcoming petition to appoint a receiver must be provided to interested parties. More specifically, "[p]ursuant to Health and Safety Code section 17980.6, the receivership process is initiated by the issuance of an order or notice to repair or abate posted in a conspicuous place on the Subject Property." Next, "Health and Safety Code section 17980.7(c) requires [notice of the forthcoming petition to appoint receiver] to be posted in a prominent place at [the

subject] Property *and* mailed [via] first-class mail to all persons with a recorded interest in the Property no less than three days prior to filing the petition.” (Italics added.)

City’s January 19, 2023, Notice to Abate Pursuant to Health and Safety Code Section 17980.6

As noted in City’s petition: “On January 19, 2023, a Notice to Abate pursuant to Health and Safety Code section 17980.6 was issued. This notice gave Owner until 5:00 p.m. on February 7, 2023, to correct all violations. A copy of the Notice to Abate was posted at the Property (front door and fence) and mailed to the owner at her address of record.”

City’s petition further explained: “Research was then conducted by the City Attorney in an attempt to find the named living heir, Steve Gomez, to name as a successor in interest for purposes of this Petition for Receivership. It was confirmed by the CDCR Parole office that Mr. Gomez is a current inmate at California Rehabilitation Center with an estimated release date of March of 2024.” Thereafter, on March 28, 2023, City mailed to Gomez a notice of its intent to file a petition for appointment of a receiver.

City Filed Petition and Request for Appointment of a Receiver on April 5, 2023

On April 5, 2023, City filed its petition for appointment of receiver. The petition described the conditions at the Van Buren property at the time of filing: “In sum, the Subject Property is currently in violation of the FMC, California Building Code, California Plumbing Code, California Energy Code, California Fire Code, and Health and Safety Code. The violations stem from the inability or indifference of the Owner and Successor to properly maintain the Subject Property. While under the current ownership, the Subject Property’s dilapidated and substandard state endangers the health and safety of the neighborhood and general public by encouraging the presence of transients, criminal activity, and creating numerous potential fire hazards within a residential community where children reside and go to school.”

City's petition listed in detail, numerous violations of the Fresno Municipal Code and various state codes that continued to exist at the Van Buren property.

City's petition noted: "For the reasons stated herein, the Subject Property has been found to be a substandard building as defined by [the] Health and Safety Code and a public nuisance by local ordinance. The substandard nature of the Subject Property is a significant danger to the health and safety of the public as provided in Health and Safety Code section 17980.6. Therefore, Health and Safety Code section 17980.7 authorizes this Court to issue an order appointing a Receiver to abate all violations and rehabilitate the Subject Property."

City asked the court to appoint a receiver. Specifically, City's petition asked for: "An order pursuant to Health and Safety Code section 17980.7(c), appointing a Receiver to correct the violations, [to] immediately abate all threats to life, health, and safety, and to provide a recommended plan for remediation of the Subject Property."

The Superior Court Appointed a Receiver for the Van Buren Property

On September 14, 2023, the superior court appointed Dean J. Pucci of the Jones & Mayer law firm as receiver for the Van Buren property, pursuant to Health and Safety Code section 17980.7, subdivision (c). The superior court stated that the receiver was "delegated the duty and power to correct all of the existing violations existing upon the Property and to see to it that the violations do not reoccur." The court further noted: "Dean J. Pucci, the nominee of the City, has demonstrated the capacity and expertise to develop and supervise a viable financial and construction plan for the rehabilitation of the Property."

The Superior Court Approved the Receiver's Sale of the Van Buren Property

On March 5, 2024, the receiver filed his first report of receiver, in which he requested approval of the sale of the Van Buren property. A hearing on the issue was held on March 14, 2024. At the hearing, the superior court considered the first report of receiver and "granted and ratified" "all actions described therein."

More specifically, the court issued a written order following the hearing, stating: “The sale of the subject property located at 6991 N. Van Buren Avenue ... for the terms and price stated in the residential purchase agreement is confirmed and approved by this court.” (Boldface omitted.) The sale price for the Van Buren property was \$60,000.00. The court directed the receiver to “give notice to all Parties and recorded interests of this Order.”

Thereafter, Gomez filed the instant appeal. Gomez appeals the superior court’s order approving the receiver’s sale of the Van Buren property.

DISCUSSION

I. GOMEZ WAS GIVEN THE REQUISITE NOTICE OF CITY’S INTENT TO FILE A “PETITION FOR ORDER TO ABATE SUBSTANDARD BUILDING, APPOINTMENT OF A RECEIVER AND ORDERS PURSUANT TO THE CALIFORNIA HEALTH AND SAFETY CODE”

Gomez argues he was not given proper notice of City’s intent to file a petition to appoint a receiver. City disputes Gomez’s assertions and contends he was given the requisite notice. We agree with City.

Health and Safety Code sections 17980.6 and 17980.7, subdivision (c), authorize the Court to appoint a receiver for a substandard building. These statutes prescribe a two-step process for appointing a receiver.

First, when the violations at the property at issue are “so extensive and of such a nature that the health and safety of residents or the public is substantially endangered,” the enforcement entity is authorized to issue an order or notice to abate pursuant to Health and Safety Code section 17980.6. A copy of the order or notice must be posted “in a conspicuous place on the property.” (Health & Saf. Code, § 17980.6.)

Second, if the property owner fails to comply within a reasonable time with the terms of the order or notice issued pursuant to Health and Safety Code section 17989.6, the enforcement entity “may seek and the court may order, the appointment of a receiver

for the substandard building.” (Health & Saf. Code, § 17980.7, subd. (c).) In its petition to the court, the enforcement entity “shall include proof that notice of the petition was posted in a prominent place on the substandard building and mailed first-class mail to all persons with a recorded interest in the real property upon which the substandard building exists not less than three days prior to filing the petition [i.e., a 72-hour notice to interested parties is required].” (Health & Saf. Code, § 17980.7, subd. (c).)

Gomez argues he did not receive the requisite 72-hour notice before City filed its petition for appointment of a receiver. He notes he was incarcerated at the California Rehabilitation Center in Norco at the relevant time. He asserts that, to the extent City sent him the 72-hour notice by mail, the address used by City was incomplete in that it did not include his “CDC#.”

City responds that (1) on March 28, 2023, the requisite 72-hour notice of City’s intent to file the petition was mailed to Gomez at the state prison in Norco, and (2) Gomez’s CDCR number was included in the mailing address. Thereafter, City properly filed its petition on April 5, 2023.

City is correct. Exhibit 7 to City’s petition, included in the record on appeal, shows that a 72-hour notice of intent to file the petition to appoint receiver was properly mailed to Gomez. The proof of service attached to the 72-hour notice shows it was mailed to Gomez on March 28, 2023. The proof of service indicates the 72-hour notice was mailed to Gomez at the California Rehabilitation Center at Norco and Gomez’s CDCR number was included in the mailing address. City’s petition was filed thereafter, on April 5, 2023.

In short, City timely provided the requisite 72-hour notice of its intent to file the petition for receivership. Gomez’s assertions therefore fail.

II. POST-FILING, GOMEZ WAS PROPERLY SERVED WITH THE SUMMONS AND PETITION

The record shows that, on April 26, 2023, Gomez was *personally served* by a CDCR staff member with the following documents: summons, civil case cover sheet, petition, notice of hearing on petition, memorandum of points and authorities in support of petition, declaration of Ron Becerril, amended declaration of nominated receiver, proposed order, and lis pendens. The relevant proof of service was signed by the CDCR staff member in question.

Under Code of Civil Procedure section 415.10, service of the summons and complaint by personal delivery is deemed complete as of the time of delivery. (See Code Civ. Proc., § 415.10 [“A summons may be served by personal delivery of a copy of the summons and of the complaint to the person to be served. Service of a summons in this manner is deemed complete at the time of such delivery.”].) Accordingly, Gomez was properly served.

Gomez argues service of the summons was improper because it was served by a person involved in the case. (See Code Civ. Proc., § 414.10 [“A summons may be served by any person who is at least 18 years of age and not a party to the action.”].) However, the applicable proof of service is in the record and establishes that the summons was served by a member of the prison staff. Since the latter was not involved in the case, Gomez’s claim fails.

III. GOMEZ HAD ACTUAL KNOWLEDGE OF THE COURT PROCEEDINGS

Gomez asserts that it is immaterial whether he was properly served or not, because “even if presented with the stated documents, [he] would continue to be unaware of what the proceedings were about.” Gomez contends that he “suffers from a mental disability that prevents him from comprehending the issue at hand.” He argues he “did not have constructive knowledge of the court proceedings and therefore [was] not given due process of law.”

City responds: “The City, as Petitioner in the underlying case, has no burden to evaluate a party’s mental state or provide accommodations prior to filing or during a civil court proceeding, and Gomez has provided no authority to the contrary. As [noted], Gomez was personally and properly served case documents and, therefore, had actual knowledge of the proceedings.”

We conclude City has established that Gomez had actual knowledge of the proceedings. Accordingly, his contention that he did not have constructive knowledge of the proceedings does not help him.

IV. TYPOGRAPHICAL ERROR IN ADMINISTRATIVE DECISION

Finally, Gomez points to a typographical error in the written decision of the administrative hearing officer issued after the post-abatement administrative hearing held on December 6, 2022. The hearing officer’s decision erroneously referred to the property in question as 6691 N. Van Buren Avenue, rather than 6991 N. Van Buren Avenue. Gomez asserts that this typographical error “interfered with [his] right to due process.”

City responds that the post-abatement administrative decision was issued in December 2022, “approximately 15 months before court proceedings commenced and well before Gomez was identified as a party in the underlying court action.” City adds that Gomez “has provided no authority to show the City was required to mail him, an uninvolved party, a copy of the Decision.”

We conclude Gomez has not adequately developed his argument on this point, and it is therefore forfeited. (See *Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 956 [“ ‘Appellate briefs must provide argument and legal authority for the positions taken. ‘When an appellant fails to raise a point, or asserts it but fails to support it with reasoned argument and citations to authority, we treat the point as waived.’ ”]; *Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd.* (2002) 100 Cal.App.4th 1066, 1078 [“Mere suggestions of error without supporting argument or authority other than general abstract principles do not properly

present grounds for appellate review ... The point is treated as waived and we pass it without further consideration.”].)

DISPOSITION

The trial court’s order approving the receiver’s sale of the Van Buren property is affirmed. Each side to bear its own costs on appeal.

FRANSON, Acting P. J.

WE CONCUR:

SNAUFFER, J.

DE SANTOS, J.