

FILED
LOS ANGELES SUPERIOR COURT

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Sherri R. Carter, Executive Officer/Clerk

By: B Garcia, Deputy

APPELLATE DIVISION OF THE SUPERIOR COURT
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

ALTA STANDARD ONE, LLC,

Plaintiff and Respondent,

v.

JAIME DeJESUS GONZALEZ and
LINDA MANSDORF,

Defendants and Appellants.

No. BV 030652

Santa Monica Trial Court

No. 13R00769

OPINION

I. INTRODUCTION

Appellants and defendants Jaime De Jesus Gonzalez and Linda Mansdorf appeal the unlawful detainer judgment in favor of respondent and plaintiff Alta Standard One, LLC, following the trial court's granting of summary judgment in plaintiff's favor. Defendants contend the judgment should be reversed because the trial court lacked jurisdiction to adjudicate the title to the underlying residential property and abused its discretion in doing so, and the court erred in granting summary judgment based on finding plaintiff had perfected its title to the property pursuant to a sheriff's execution sale. As discussed below, we affirm.

II. FACTUAL AND PROCEDURAL BACKGROUND

On February 22, 2013, plaintiff filed an unlawful detainer action against defendants. Plaintiff alleged it owned the property located at 811 North Alta Drive in Beverly Hills (the property), it served defendants with notice to quit, and defendants remained in possession.

1 Plaintiff sought restitution of the property, damages, and costs. Defendants answered, denying
2 the allegations in the complaint, and alleging plaintiff did not have valid title.

3 On April 19, 2013, plaintiff filed a motion for summary judgment, supported by
4 declarations and exhibits, arguing there were no triable issues of material fact regarding the
5 elements of unlawful detainer, including the element that it had perfected its title to the
6 property. Defendants filed an opposition, as well as their own motion for summary judgment,
7 accompanied by declarations and documents. The sole contention in both motions was whether
8 plaintiff had valid title.

9 Plaintiff's motion, declarations, and exhibits showed the following: On January 23,
10 2008, a judgment in the amount of \$12,000,000 was awarded in favor of Janice M.
11 McClanahan (McClanahan) against Harold Mansdorf (Mr. Mansdorf) and his wife Mildred
12 Mansdorf, jointly and severally, in case No. BC 363659. On April 18, 2008, McClanahan
13 recorded the abstract of judgment in the case.

14 On February 9, 2012, the court in case No. BC 363659 issued a writ of execution on the
15 property, and on April 9, 2012, McClanahan, as the judgment creditor, filed an application for
16 an order for the sale of "all right, title, and interest of Judgment Debtor, HARRY MANSDORF,
17 in and to" the property. (Capitalization in original.) The application described the location of
18 the property, and stated, "The property stands of record in the name of HARRY MANSDORF
19 as TRUSTEE OF THE MANSDORF FAMILY TRUST." (Capitalization in original.) On
20 April 12, 2012, McClanahan filed notice of an order to show cause regarding why the order for
21 the sale of the property should not issue. On May 10, 2012, Mr. Mansdorf filed an opposition
22 and response to the order to show cause, arguing that the property should not be sold because it
23 was owned by the Mansdorf Family Trust, not by Mr. Mansdorf individually. On August 6,
24 2012, the court conducted a hearing attended by the lawyers for McClanahan and
25 Mr. Mansdorf, and ordered the property to be sold.

26 On October 1, 2012, a notice of the sheriff's sale of the property was issued, indicating
27 the property would be sold to the highest bidder on October 31, 2012. On October 30, 2012,
28 defendants filed an ex parte application to stay the sale. Defendants maintained: the property

1 was owned by the Mansdorf Family Trust; Mr. Mansdorf died on August 27, 2012; defendants
2 were the executors of the trust; and a stay should be granted pending the appeal of the denial of
3 an order to set aside the August 6, 2008 judgment pursuant to Code of Civil Procedure
4 section 473, subdivision (d). On October 30, 2012, the court denied the application to stay the
5 sale. On October 31, 2012, the property was sold to plaintiff as the highest bidder for
6 \$4,581,500, and the sheriff's deed was recorded on December 7, 2012.

7 Defendants' opposition to plaintiff's motion included the copy of a grant deed recorded
8 on November 13, 2012. The deed was executed on July 3, 2008, and purported to convey
9 25 parcels of undeveloped land, as well as the property, from Mr. Mansdorf, as the trustee to
10 the Mansdorf Family Trust, to defendant De Jesus Gonzalez and Mr. Mansdorf, as joint tenants.

11 On May 10, 2013, the court conducted a hearing and granted plaintiff's motion for
12 summary judgment, finding there were no triable issues of material fact. The court indicated
13 that it conducted an examination of the title to the property "to determine whether plaintiff held
14 good and perfected title to the subject property." The court determined plaintiff acquired title
15 to the property at the October 31, 2012 execution sale, and the sale was absolute and could not
16 be set aside for any reason. The court also found, to the extent defendant De Jesus Gonzalez
17 acquired title on July 3, 2008, he did so subject to the judgment lien created by the recordation
18 of the abstract of judgment in case No. BC 363659, and the interest purchased by plaintiff in
19 the property related back to the date the abstract was recorded on April 18, 2008. The court
20 further determined that the BC 363659 court, in ordering the sale on August 6, 2012,
21 necessarily decided against a claim that the property could not be sold because it was not
22 owned by Mr. Mansdorf, and that determination "was *res judicata* [sic] against [defendants']
23 claim that plaintiff's title is defective." Based on its ruling, the court denied defendants'
24 summary judgment motion, and subsequently granted judgment in favor of plaintiff.

25 III. DISCUSSION

26 A. Jurisdiction and Abuse of Discretion

27 Defendants contend the judgment should be reversed because the trial court lacked
28 jurisdiction since it adjudicated title to property worth more than the court's \$25,000

jurisdictional limit. They also contend the court abused its discretion in adjudicating title and its judgment constitutes “a miscarriage of justice.”

Code of Civil Procedure section 86, subdivision (a)(4),¹ provides that a limited civil court, such as the trial court in this case, has jurisdiction to decide an unlawful detainer case where the amount of damages claimed does not exceed its jurisdictional limit of \$25,000. But, this section does not authorize a court of limited jurisdiction to adjudicate title to real property, and *Vella v. Hudgins* (1977) 20 Cal.3d 251, 257 held that a court does not have jurisdiction to adjudicate title to property worth more than the court’s jurisdictional limit. (See also § 580, subd. (b)(3) [barring a limited jurisdiction court from granting relief in the form of “[a] determination of title to real property”].)

Nonetheless, a court in an unlawful detainer action conducts a narrow inquiry regarding title to the extent needed to determine whether the purchaser at a sale acquired the property at a regularly conducted sale and thereafter “duly perfected” the title. (§ 1161a, subd. (b)(1); *Vella v. Hudgins, supra*, 20 Cal.3d at p. 255.) “‘Title is duly perfected when all steps have been taken to make it perfect, i.e., to convey to the purchaser that which he has purchased, valid and good beyond all reasonable doubt[] [citation], which includes good record title [citation]’ [Citation.]” (*Stephens, Partain & Cunningham v. Hollis* (1987) 196 Cal.App.3d 948, 953.) The “term ‘duly’ implies that all of those elements necessary to a valid sale exist.” (*Kessler v. Bridge* (1958) 161 Cal.App.2d Supp. 837, 841.) A necessary element to a valid sale is the seller’s right to sell. (See *Bank of America v. La Jolla Group II* (2005) 129 Cal.App.4th 706, 712 (*La Jolla*); *Dimock v. Emerald Properties LLC* (2000) 81 Cal.App.4th 868, 876.) Thus, when a seller does not have the ability to sell, the title acquired by a buyer is void and not “duly perfected.”

Determining whether plaintiff perfected its title was necessary to address defendants’ contentions in their answer and their opposition to plaintiff’s motion for summary judgment.

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¹All further statutory references are to the Code of Civil Procedure unless otherwise specified.

1 The court thus had jurisdiction to conduct an inquiry with respect to title insofar as it impacted
2 plaintiff's right to possession.

3 In examining title, the court analyzed the history of the litigation involving the property,
4 and found it revealed who owned the property.² Even assuming, without deciding, the court
5 abused its discretion in going beyond what was required to determine whether plaintiff "duly
6 perfected" the title, reversal is not warranted because defendants have not shown they were
7 prejudiced.

8 "Prejudice is not presumed, and the burden is on the appealing party to demonstrate that
9 a miscarriage of justice has occurred.' [Citation.] To establish prejudice, an appellant must
10 show a reasonable probability exists that, in the absence of the error, he or she would have
11 obtained a more favorable result. [Citation.]" (*People ex rel. City of Santa Monica v. Gabriel*
12 (2010) 186 Cal.App.4th 882, 887.)

13 In the present case, we review the court's order granting summary judgment de novo.
14 (See *Addy v. Bliss & Glennon* (1996) 44 Cal.App.4th 205, 214.) Thus, even assuming the
15 court's inquiry regarding title exceeded that allowed in an unlawful detainer action, defendants
16 cannot show they would have obtained a more favorable result.

17 B. Summary Judgment

18 "Since summary judgment involves pure matters of law, we review a summary judgment
19 ruling de novo to determine whether the moving and opposing papers show a triable issue of
20 material fact. [Citations.]" (*Addy v. Bliss & Glennon, supra*, 44 Cal.App.4th at p. 214.) In
21 reviewing the ruling, we "consider[] all of the evidence the parties offered in connection with
22 the motion . . . and the uncontradicted inferences the evidence reasonably supports. [Citation.]"
23 (*Merrill v. Navegar, Inc.* (2001) 26 Cal.4th 465, 476.) "[W]e apply the same three-step
24 analysis used by the [trial] court. "First, we identify the issues framed by the pleadings . . .
25 [¶] Secondly, we determine whether the moving party's showing has established facts which
26 negate the opponent's claim and justify a judgment in movant's favor. . . . [¶] When a . . .

27 ²In its statement of decision, for example, the court stated, "The order in the BC case is *res*
28 *judicata* [sic] on the issue of ownership of the property."

1 motion prima facie justifies a judgment, the third and final step is to determine whether the
2 opposition demonstrates the existence of a triable, material factual issue.” [Citation.]”
3 (*Rosales v. Battle* (2003) 113 Cal.App.4th 1178, 1182.)³

4 To prevail in the motion for summary judgment, plaintiff was required to make a prima
5 facie showing of all the essential elements of the unlawful detainer cause of action. Plaintiff
6 had to show: (1) it owned the property under a duly-perfected title; (2) it properly served
7 defendants with a notice to quit; and (3) defendants were still in possession. (§ 1161a, subd.
8 (b).) Based on the parties’ pleadings, the only element at issue was whether plaintiff duly
9 perfected its title.

10 Plaintiff’s motion and supporting documentation established a prima facie case
11 concerning the validity of its title. The sheriff on October 31, 2012, sold the property to
12 plaintiff, and the sheriff’s deed was recorded on December 7, 2012. Section 701.680,
13 subdivision (a), provides: “Except as provided in paragraph (1) of subdivision (c), a sale of
14 property pursuant to this article is absolute and may not be set aside for any reason.” The sale
15 was conducted pursuant to a sheriff’s execution sale under section 701.510, and section
16 701.680, subdivision (c) states the only basis to set aside a sale is through an action by a
17 judgment debtor where the purchaser was the judgment creditor. This latter exception was
18 inapplicable because the purchaser at the sale was not the judgment creditor. The October 31,
19 2012 sale was therefore “absolute,” meaning it conveyed an “absolute deed,” a “document of
20 conveyance without restriction or defeasance” (*Yancey v. Fink* (1991) 226 Cal.App.3d 1334,
21 1350).

22 Defendants contend the sheriff’s sale was ineffectual because Mr. Mansdorf died prior to
23 the sale on August 27, 2012, and as a result of the July 3, 2008 deed conveying the property to
24 defendant De Jesus Gonzalez and Mr. Mansdorf as joint tenants, title rested exclusively in
25 De Jesus Gonzalez’s name as of the death. Defendants further contend the sale did not convey
26

27 ³Defendants contend the court abused its discretion by improperly making determinations of
28 fact in ruling on the summary judgment motion. We reject the contention because it is not supported by
the record. (See *People v. Seneca Insurance Co.* (2004) 116 Cal.App.4th 75, 80.)

1 the deed to the property because the property at the time of the sale was owned by the Mansdorf
2 Family Trust, not by Mr. Mansdorf individually.

3 We reject the contentions because contesting the sale in this manner runs counter to the
4 clear terms of section 701.680, subdivision (a), which bars, with exception of a challenge
5 inapplicable here, setting aside a sheriff's sale "for any reason." The October 1, 2012 notice of
6 sale indicated the property at issue in this case would be sold, the sheriff's deed stated the
7 property was in fact sold, and in light of section 701.680, subdivision (a), defendants did not
8 demonstrate the existence of a triable issue of material fact regarding plaintiff perfecting title.

9 IV. DISPOSITION

10 The judgment is affirmed. Plaintiff to recover costs on appeal.

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13 We concur.

14 
Ricciardulli, J.

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P. McKay, P. J.

16 
Kumar, J.