2024 WL 4763033
Not Officially Published
(Cal. Rules of Court, Rules 8.1105 and 8.1110, 8.1115)
Only the Westlaw citation is currently available.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS
Court of Appeal, First District, Division 2, California.

1429 GRANT AVENUE, LLC, Plaintiff and Respondent,
v.
ANGELINA M. GREEP, Defendant and Appellant.

A166801
|
Filed 11/13/2024

(San Francisco County Super. Ct. No. CUD-22-668843)

Opinion

DESAUTELS, J.

***1** Defendant Angelina M. Greep appeals summary judgment in favor of plaintiff 1429 Grant Avenue, LLC (Grant Ave), in its unlawful detainer action awarding it restitution of possession of real property. Greep maintains she has tenant status that negates elements of Grant Ave's unlawful detainer claim and that she presented evidence establishing an issue of material fact regarding her asserted tenancy that defeats summary judgment. But Grant Ave produced evidence demonstrating the termination of the original 2015 lease (which did not name Greep as a tenant) and that the subsequent 2016 lease (which did name Greep as a tenant) is void. In addition, collateral estoppel precludes relitigating Greep's status as a tenant. As no triable issues of material fact remain, we affirm.

BACKGROUND

This unlawful detainer action concerns the real property commonly known as 1427–1431 Grant Avenue/28 Bannam Place, San Francisco, California (the property).[1] Myriad actions concerning the property precede this appeal, but we limit our narration of the litigation history to the actions that implicate the issues directly before us.[2]

Pertinent here, in 2015, the then-owner of the property entered into a lease with Andrew Linton naming Linton as the only tenant of the property (the 2015 lease).

In 2017, Grant Ave—by then, the new owner of the property—initiated the Linton action, which was an ejectment action against Linton for nonpayment of rent. In response, Linton filed various cross-claims arising out of a subsequent lease executed in 2016 (the 2016 lease). Grant Ave filed a motion for judgment on the pleadings as to Linton's cross-complaints.[3] In June 2018, the superior court presiding over the Linton action (the Linton court) granted Grant Ave's motion for judgment on the pleadings, ruling that the 2016 lease was void as it was executed without the authority of the owner or trustee of the property amidst the ongoing bankruptcy proceedings. In fact, the bankruptcy proceedings included a court-approved settlement agreement that confirmed the 2015 lease was the operative lease for the property and specifically precluded the creation of any new leases.[4]

***2** After argument on Grant Ave's motion for judgment on the pleadings in the Linton action, but before the Linton court's ruling, Greep filed an administrative petition before San Francisco's Residential Rent Stabilization and Arbitration Board (the rent board), claiming that Grant Ave substantially decreased housing services without a corresponding reduction in rent.[5] Greep acknowledged that she was not named as a tenant on the 2015 lease but represented she had moved in shortly after Linton signed the 2015 lease and "felt that she was on equal footing as Andrew Linton in terms of deciding what to do with the property, and had equal access to all of the property, including the garage and storage space."[6] Although Greep "did not get involved with the legal side of things," she represented she paid half the rent to Linton, who in turn paid the property manager, "purely out of convenience." Greep further asserted that, per a separate settlement agreement in the habitability action, "the tenants did not have to pay rent until repairs were made, and her status was adjusted to that of cotenant with a direct relationship with the landlord."[7] Greep claimed she signed the

2016 lease as a cotenant pursuant to this purported settlement agreement.

In August 2018, six weeks after the Linton court's ruling that the 2016 lease was void, an administrative law judge held the rent board hearing concerning Greep's petition. In opposition, Grant Ave averred that both the 2015 lease and the 2016 lease were products of fraud, and, in the alternative, Greep failed to show that she qualified as a lawful tenant: Greep was not named in the 2015 lease, she never directly paid rent, and the 2016 lease was void and unenforceable.

The administrative law judge bifurcated the hearing to first determine the threshold issue of Greep's standing. After the presentation of "relevant evidence and argument," including testimony under oath and the opportunity for supplemental briefing, the administrative law judge denied the petition.[8] The administrative law judge found that Greep was not a lawful tenant of the property under the 2015 lease, and the rent board was bound by the Linton court's decision that the 2016 lease was void. Greep did not appeal the denial of her petition, nor did she petition for writ of administrative mandate.

Almost three years after the rent board hearing, in 2021, Linton and Grant Ave reached a settlement agreement in the Linton action (the Linton settlement). In exchange for $250,000 "due not later than the date the state case is dismissed," Linton agreed to "move out in no more than 90 days from October 12, 2021." Two months later, Linton represented via e-mail he had moved out of the property. But when Grant Ave attempted to take possession, Greep occupied the property (and hosted Linton there, ostensibly as a guest.) Greep proposed to Grant Ave that she would vacate the property by March of 2022 in exchange for an additional $117,000, advising Grant Ave to "[c]onsider this matter carefully."

***3** Grant Ave and Linton filed cross-motions in the Linton action to enforce the Linton settlement. The Linton court granted Grant Ave's motion and denied Linton's, finding that Linton had not delivered possession of the property because "his former girlfriend Ms. Greep, ... remained on the premises." The Linton court ordered Linton to "deliver full possession of the premises" by February 1, 2022. Linton failed to do so; Greep remained.

Subsequently, on March 4, 2022, Grant Ave served Greep with a three-day notice to quit as an "Unapproved, Unauthorized Subsequent Occupant." When Greep failed to vacate, Grant Ave filed the instant unlawful detainer action; it also served the complaint, summons, and prejudgment claim of right of possession. Following responsive pleadings, discovery, and an initial motion for summary judgment denied on notice grounds, Grant Ave filed the motion for summary judgment that underlies this appeal.[9]

Greep late-filed her written opposition to the motion for summary judgment. (Cal. Rules of Court, rule 3.1351(c) ["written opposition must be filed and served on or before the court day before the hearing"].) Nonetheless, the trial court exercised discretion in entertaining Greep's tardy filing. The only evidence Greep submitted in support of her opposition to the motion were two declarations: one by Greep and one by Linton. Neither declaration attaches any documents, affidavits, or additional evidence. By contrast, Grant Ave submitted over two dozen documents and legal filings in support of its motion, including, but not limited to, the 2015 lease, the 2016 lease, the Linton action order granting its motion for judgment on the pleadings, the rent board's decision on standing, and Greep's discovery responses in the instant action.

Concluding that Grant Ave established all elements of its cause of action for unlawful detainer and that Greep failed to produce evidence to create a triable issue of fact, the trial court granted the motion and subsequently entered judgment for Grant Ave. Greep appealed.

DISCUSSION

Greep claims on appeal the trial court erred in concluding that: (1) Grant Ave had established all elements of its cause of action for unlawful detainer; (2) Greep had failed to produce evidence creating a triable issue of fact; and (3) Grant Ave had carried its burden of persuasion to show that there was no triable issue of material fact and that it was entitled to judgment as a matter of law. Despite initially asserting these three issues, Greep's briefs are muddled. They often conflate Grant Ave's burden and her own and fail to substantively address the trial court's application of collateral estoppel. Although Greep appears in this court without counsel, that does not excuse her from "mak[ing] coherent legal arguments." (*Stebley v. Litton Loan Servicing, LLP*, *supra*, 202 Cal.App.4th at p. 524; *Wright v. City of Los Angeles* (2001) 93 Cal.App.4th 683, 689 [asserting grounds for appeal lacking "coherent legal argument are deemed abandoned and unworthy of discussion"].) At bottom, Greep

contends Grant Ave did not meet its burden of production to establish that the term of the 2015 lease had ended or that Greep was not an approved subtenant; Greep further argues that she presented triable issues of fact regarding her tenancy. We disagree and affirm.

A motion for summary judgment is properly granted if no triable issues of material fact appear and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc., § 437c, subd. (c);[10] *Schachter v. Citigroup, Inc.* (2009) 47 Cal.4th 610, 618.) We independently review an order granting summary judgment. (*Hamburg v. Wal-Mart Stores, Inc.* (2004) 116 Cal.App.4th 497, 502.) In doing so, "We apply the same three-step analysis required of the trial court." (*Id.* at p. 503.) " ' " 'First, we identify the issues framed by the pleadings since it is these allegations to which the motion must respond.' " ' " (*Ibid.*) Then, where the movant is the plaintiff, the plaintiff "bears the initial burden of 'showing that there is no defense to a cause of action if that party has proved each element of the cause of action entitling the party to judgment on the cause of action.' [Citation.] Once the plaintiff has met that burden, the burden shifts to the defendant to 'set forth the specific facts showing that a triable issue of material fact exists as to the cause of action or a defense thereto.' " (*640 Octavia, LLC v. Pieper* (2023) 93 Cal.App.5th 1181, 1189.) " 'There is a triable issue of material fact if, and only if, the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion in accordance with the applicable standard of proof.' " (*Ibid.*) We liberally construe the evidence in the nonmovant's favor. (*Ibid.*)

I.

The Linton Settlement Terminated the 2015 Lease, Rendering the Unlawful Detainer of the Property Actionable.

***4** Section 1161, subdivision (1), provides that a tenant is guilty of unlawful detainer who "continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the [applicable lease's] term ... including the case where the person to be removed became the occupant of the premises as a ... licensee and the relation of ... licensor and licensee, has been lawfully terminated or the time fixed for occupancy by the agreement between the parties has expired." (§ 1161, subd. (1).) The purpose of the unlawful detainer statutory scheme is to expeditiously allow a landlord to recover the possession of property. (See *San Francisco Apartment Association v. City and County of San Francisco* (2024) 104 Cal.App.5th 1218, 1229.) Thus, in unlawful detainer cases, " '[t]he sole issue before the court is the right to possession.' " (*Underwood v. Corsino* (2005) 133 Cal.App.4th 132, 135.)

Greep asserts Grant Ave failed to meet its burden to present even prima facie evidence that the 2015 lease ended, therefore, Grant Ave's action for unlawful detainer has no legal basis. But Greep's argument demonstrates her misunderstanding of applicable law, including Grant Ave's burden of production.

To start, it is undisputed that Grant Ave owns and serves as the landlord for the property, which was rented to Linton under the 2015 lease. The 2015 lease provided for a fixed term tenancy of one year that "shall automatically renew for twelve months" unless either party provides "prior written notice of TERMINATION." For her part, Greep admits she was not a signatory to the 2015 lease, yet she urges that the "lease in question is the 2015 Lease." It is further uncontested that Linton was required to vacate—and represented he had vacated—the property pursuant to the Linton settlement.

Greep challenges these facts with several disjointed arguments. First, she claims Grant Ave's assertion that the Linton settlement terminated the 2015 lease is a "legal conclusion, not an allegation of fact." Without cites to relevant legal authority, Greep asserts that Linton's written representation he had "moved out" of the premises as required by the Linton settlement did not qualify as the "prior written notice of TERMINATION" that the 2015 lease requires. Because Greep's unsupported argument violates the rules of court, we can reject it out of hand. (See Cal. Rules of Court, rule 8.204(a)(1)(B); *Allen v. City of Sacramento* (2015) 234 Cal.App.4th 41, 52 ["When legal argument with citation to authority is not furnished on a particular point, we may treat the point as forfeited and pass it without consideration"].) Even so, the record demonstrates that Greep's argument has no legal merit.

As stated above, Grant Ave proffered documentary evidence in support of its motion for summary judgment that included the 2015 lease, the Linton settlement, Linton's e-mail representation that he vacated the property pursuant to the Linton settlement, and the Linton court's order regarding the parties' cross-motions to enforce the Linton settlement. The

trial court relied on that documentary evidence to determine that Linton "surrendered his right to possession" and "the term of any lease would now be over."

On review we rely on the same evidence and reach the same conclusion as the trial court. The import of a settlement agreement is an issue of law "subject to the general law governing all contracts." (*Kaufman v. Goldman* (2011) 195 Cal.App.4th 734, 745; see *Cohen v. Five Brooks Stable* (2008) 159 Cal.App.4th 1476, 1483 [appellate court independently review contract interpretation].) "Courts seek to interpret contracts in a manner that will render them ' "lawful, operative, definite, reasonable, and capable of being carried into effect" ' without violating the intent of the parties." (*Kaufman*, at p. 745; see also Civ. Code, § 1639 ["[w]hen a contract is reduced to writing, the intention of the parties is to be ascertained from the writing alone, if possible"]; Civ. Code, § 1638 [the "language of a contract is to govern its interpretation"].)

***5** Here, the Linton settlement terms provided Linton "must move out in no more than 90 days from October 12, 2021" in exchange for payment from Grant Ave "not later than the date the [Linton action] is dismissed." As the Linton court explained in its order on the parties' cross-motions to enforce the settlement, "[t]he agreement was for the payment of money for actual possession of the property; this is the only reasonable meaning of the words 'move out' in the Agreement." We agree. The uncontested evidence establishes Linton vacated the property with the intention of tendering possession in order to secure the $250,000 payment provided for by the Linton settlement; Linton therefore voluntarily consented to terminate and relinquish any right in 2015 lease. (Cf. *Kaufman v. Goldman*, *supra*, 195 Cal.App.4th at p. 745 [tenant waived possessory right in "the settlement of a legal claim that was made for valuable consideration in return for termination of litigation"]; *Kassan v. Stout* (1973) 9 Cal.3d 39, 43, 42 ["abandonment takes place when 'the lessee leaves the premises vacant with the avowed intention not to be bound by his lease' " and an "attempted abandonment terminates the lessee's rights" if the lessor accepts the surrender].) Accordingly, we conclude Grant Ave carried its initial burden to make a prima facie showing that the 2015 leasehold ended.[11]

Greep next contends that "LINTON remained in constructive possession" of the property—even after Linton represented he had physically vacated the property—because Greep "maintained physical possession of the premises as a co-tenant and or subtenant." Even if this assertion could support Greep's claim of a triable issue of fact, it does not undermine Grant Ave's prima facie showing. More importantly, as discussed below, Greep is collaterally estopped from renewing her argument that she is a tenant or cotenant, and she has forfeited any claim that she has standing as a subtenant. As a result, Greep's authorities cited for the proposition that cotenants may remain in constructive possession of leased or rented property remain inapplicable. (*Schmitt v. Felix* (1958) 157 Cal.App.2d 642, 646 [because "renewal is merely an extension of the original term and is not a new agreement," the cotenant defendant "was constructively in possession at the time of the extension of the lease and was therefore bound by his [cotenants'] acts"]; *Jeffrey Kavin, Inc. v. Frye* (2012) 204 Cal.App.4th 35, 49 [distinguishing *Schmitt*, because "although the lease provided that the lessees could exercise an option to extend the term of the lease ... it did not provide the manner in which it could be exercised or that it must be exercised by a timely, written notice by the lessee"].) In sum, we conclude the Linton settlement terminated the 2015 lease.

II.

Greep Forfeited Any Claim of Subtenancy, and Collateral Estoppel Bars Any Claim of Tenancy

***6** Greep asserts that Grant Ave did not satisfy its prima facie burden to show that Greep had not been approved "by the Landlord" as a tenant. Greep further contends that she presented a triable issue of fact regarding her alleged tenancy, or alternatively subtenancy, at the property. But these arguments fail because Greep's own discovery responses bar her from taking the position that she was approved as a subtenant. Moreover, collateral estoppel precludes Greep from presenting a triable issue of fact as to her alleged tenancy.

As an initial matter, in response to Grant Ave's special interrogatories and requests for admission, Greep expressly disclaimed that she was a subtenant and represented that she never requested approval to be a subtenant. These responses bind her. (§ 2033.410, subd. (a) ["Any matter admitted in response to a request for admission is conclusively established against the party making the admission in the pending action"]; *Cory v. Golden State Bank* (1979) 95 Cal.App.3d 360, 366 ["it is clear that the nonmoving party's admissions may be used to establish that no material factual

issues remain to be resolved by trial"].) Greep reiterated these admissions in her opposition to Grant Ave's motion for summary judgment, emphasizing that she "has never contended, and has consistently denied, that she was or is a subtenant to Linton." These statements foreclose any argument now that Greep was approved by a landlord as a subtenant. Nor can Greep use Linton's late-filed declaration in opposition to the motion for summary judgment to raise this subtenancy claim. (See *Olson v. La Jolla Neurological Associates* (2022) 85 Cal.App.5th 723, 739 ["In a summary judgment appeal, a party is ordinarily not permitted to change her position and adopt a new and different theory"].) We therefore reject Greep's claim she has a right to possess the property as a subtenant, whether authorized by a landlord or not.

Next, we turn to the trial court's determination that collateral estoppel barred Greep's claims of tenancy. We review the question of collateral estoppel de novo. (See, e.g., *Smith v. ExxonMobil Oil Corp.* (2007) 153 Cal.App.4th 1407, 1415.) Collateral estoppel requires: (1) " 'the issue sought to be precluded from relitigation must be identical to that decided in a former proceeding' "; (2) " 'this issue must have been actually litigated in the former proceeding' "; (3) " 'it must have been necessarily decided in the former proceeding' "; (4) " 'the decision in the former proceeding must be final and on the merits' "; and (5) " 'the party against whom preclusion is sought must be the same as, or in privity with, the party to the former proceeding.' " (*Pacific Lumber Co. v. State Water Resources Control Bd.* (2006) 37 Cal.4th 921, 943 (*Pacific Lumber*).)

In *Pacific Lumber*, our Supreme Court "recognized that '[c]ollateral estoppel may be applied to decisions made by administrative agencies.' " (*Pacific Lumber*, *supra*, 37 Cal.4th at p. 944.) The nature of the rent board proceedings held here and the manner in which they were conducted demonstrate sufficient "indicia" of their judicial character and operation consistent with local regulations to have preclusive effect. (*Ibid.* ["Indicia of proceedings undertaken in a judicial capacity include a hearing before an impartial decision maker; testimony given under oath or affirmation; a party's ability to subpoena, call, examine, and cross-examine witnesses, to introduce documentary evidence, and to make oral and written argument; the taking of a record of the proceeding; and a written statement of reasons for the decision' "].) The presiding administrative law judge was an impartial decision maker (S.F. Admin. Code, § 37.2, subd. (f)); the parties were able to introduce evidence and call, examine, and cross-examine witnesses who testified under oath (S.F. Admin. Code, § 37.8, subd. (e)(3)); the parties were permitted to make oral and written arguments (which included consideration of Greep's untimely posthearing submission); a record of the proceeding was taken (although not submitted on appeal) (*ibid.*); and the administrative law judge issued a written statement of reasons for the decision. (*Ibid.*)

***7** We further conclude that Grant Ave established all the requirements to collaterally estop Greep from relitigating the question of her tenancy. (See *Pacific Lumber*, *supra*, 37 Cal.4th at p. 943.) First, the rent board's determination of Greep's standing and status as a "tenant" or "cotenant"—under either of the 2015 or 2016 leases or through her conduct—is "identical" to the issue here. (*Ibid.*) Second, the issue was "actually litigated," with Greep presenting oral testimony and submitting written evidence and argument. (*Ibid.*) Third, the issue of Greep's status as a tenant or cotenant was "necessarily decided"; indeed, it was dispositive. (*Ibid.*) Fourth, the decision became final after Greep neither appealed it nor filed a petition for writ of administrative mandate. (*Ibid.*; S.F. Admin. Code, § 37.8, subd. (f)(1) [time to appeal].) While standing is generally a jurisdictional or procedural issue that must be resolved before reaching a matter's merits (see *Reynolds v. City of Calistoga* (2014) 223 Cal.App.4th 865, 871), the rent board's decision was a substantive determination under the applicable municipal code that resulted in the denial of Greep's petition. (See *Boccardo v. Safeway Stores, Inc.* (1982) 134 Cal.App.3d 1037, 1042 [dismissal of federal action constituted judgment on the merits because antitrust standing turned on whether the plaintiffs had "been injured by an illegal overcharge for purposes of § 4 [of the Clayton Act]".) Finally, the parties in the rent board proceeding and the present case, i.e., Grant Ave and Greep, are one and the same.

This is not the type of "offensive" use of collateral estoppel that can be disfavored—i.e., where "a plaintiff is seeking to estop a defendant from relitigating the issues which the defendant previously litigated and lost in litigation against another plaintiff." (*Parklane Hosiery Co., Inc. v. Shore* (1979) 439 U.S. 322, 329; see *id.* at pp. 330–332 [collateral estoppel may be inappropriate where it results in inconsistent judgments, the plaintiff could have joined an earlier proceeding against the defendant, or the defendant lacked procedural opportunities in the first action that could readily cause a different result in the second action].) Instead, it is Greep who petitioned the rent board while the validity of the 2016 lease was being determined by the Linton court.

After the Linton court declared the 2016 lease void, after the rent board determined that Greep lacked standing as a tenant or cotenant, and after Linton agreed to vacate and represented he had vacated the property, Greep continued to occupy the property, even "hosting" Linton as a guest and demanding additional payment from Grant Ave to leave. In this context, we reject the duplicitous argument that Linton vacated the premises but did not give up his interest in the leasehold. Given the labored history of extended litigation seemingly all reaching the same conclusion, applying the doctrine of collateral estoppel here is equitable, promotes judicial economy, and avoids inconsistent judgments. (*People v. Garcia* (2006) 39 Cal.4th 1070, 1079–1080.)

Because Greep is collaterally estopped from again asserting her tenancy before the trial court, her self-serving declaration submitted in opposition cannot demonstrate a triable issue of fact that might defeat summary judgment. Moreover, Greep's declaration contradicts Greep's sworn testimony before the administrative law judge that she never paid rent directly to a landlord. (See *Trovato v. Beckman Coulter, Inc.* (2011) 192 Cal.App.4th 319, 325.) For its part, the Linton declaration filed in support of Greep's opposition to the motion for summary judgment fails to cite or articulate any evidence in support of Greep's assertion that Linton "always contended" that Greep was his cotenant under the 2015 lease. In any event, as discussed, Linton's most recent contentions of cotenancy are irrelevant because Greep is collaterally estopped from continuing to assert she is a tenant.

III.

Additional Arguments Raised

In her reply brief, Greep raises a number of arguments for the first time. She claims that Grant Ave's assertion in the complaint that the 2015 lease was an instrument of fraud precludes it from pursuing an unlawful detainer action. Greep further contends that because the rent board decision uses the terms "co-tenant," "subtenant," and "squatter" but not "licensee" in its characterization of the issue presented, the trial court could not both apply collateral estoppel and consider her to be a licensee.

***8** Both arguments fail. First and foremost, "we will not address arguments raised for the first time in the reply brief." (*Provost v. Regents of University of California* (2011) 201 Cal.App.4th 1289, 1295; *Hernandez v. First Student, Inc.* (2019) 37 Cal.App.5th 270, 277–278 [" 'Fairness militates against allowing an appellant to raise an issue for the first time in a reply brief because consideration of the issue deprives the respondent of the opportunity to counter the appellant by raising opposing arguments about the new issue' "].)

Even so, these arguments lack substantive merit. Grant Ave's allegations of fraud are irrelevant to the unlawful detainer action, as Grant Ave concedes the 2015 lease "has never been adjudicated valid or invalid." Moreover, Greep's authorities are inapposite. They stand for the proposition that the summary nature of unlawful detainer actions bars additional causes of action or any defenses, counterclaims, or cross-claims that are not germane " ' "to the narrow issue of possession" ' "; they do not preclude Grant Ave's unlawful detainer action. (*Underwood v. Corsino*, *supra*, 133 Cal.App.4th at p. 135; *Cal-American Income Property Fund IV v. Ho* (1984) 161 Cal.App.3d 583, 585.)

In addition, the rent board concluded that Greep "has not established that she at any time has had a direct relationship with the landlord" and thus did not have standing to assert a decreased housing services claim. The trial court's application of collateral estoppel to the issue of tenancy is completely consistent with this determination, regardless of the use of the terms "licensee" and "unauthorized subtenant."

DISPOSITION

The judgment is affirmed. Grant Ave is entitled to costs of appeal. (Cal. Rules of Court, rule 8.278(a)(1).)

We concur:

STEWART, P. J.

RICHMAN, J.

All Citations

Not Reported in Cal.Rptr., 2024 WL 4763033

Footnotes

1 We grant Grant Ave's request to take judicial notice of exhibits 1 through 7 as records and official acts of court. (See Evid. Code, § 452.) On the court's own motion, we take judicial notice of the existence of the following cases and reference them, *post*, as defined here: San Francisco Superior Court case No. CGC-17-557123 (the Linton action); *In re W.B. Coyle* (Bankr. N.D. Cal. 2013) case No. 13-32412-HLB (the bankruptcy proceedings); San Francisco Superior Court case No. CGC-16-553411 (the habitability action). (See *Mendoza v. Superior Court* (2024) 103 Cal.App.5th 865, 873, fn. 4 [taking judicial notice of the existence of pending writ proceedings].)

2 As noted more specifically below, our summary of the prior proceedings is hampered by the record Greep presents on appeal. We will not develop the record on her behalf and "[w]e are not bound to develop [Greep's] arguments for [her]." (*In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 830; *Stebley v. Litton Loan Servicing, LLP* (2011) 202 Cal.App.4th 522, 524 [appellant bears burden of making "coherent legal argument" supported by authority and an adequate record].) That Greep is in propria persona does not excuse this shortcoming. (*Stebley*, at p. 524.)

3 The record of the Linton action presented on appeal is limited and includes the same records Grant Ave submitted to the trial court in support of the motion for summary judgment that underlies this appeal: the cross-complaint Linton filed in the Linton action, the Linton action court order granting Grant Ave's motion for judgment on the pleadings, and Grant Ave's ensuing contempt proceedings against Linton.

4 The only evidence in the appellate record regarding the bankruptcy proceedings, *In re W.B. Coyle* (Bankr. N.D. Cal. 2013) case No. 13-32412-HLB is the settlement agreement and order granting motion of compromise, both of which were filed by Grant Ave in support of its motion for summary judgment against Greep. The bankruptcy settlement agreement involved the property's previous owner (not Grant Ave), who represented that the 2015 lease was "the only lease for the Property" and "that there are no agreements, understandings, amendments, or modifications to [the lease] whether written, oral, or implied." The previous owner further agreed that "[n]either [it] nor [its agent] shall directly or indirectly create or facilitate any new leases, subleases, or other rights of occupancy or possession with respect to the Property (e.g. squatters, roommates, sublessees, etc.)."

5 Greep failed to include with the appellate record the petition, the parties' briefs and submissions, and the transcript of the rent board proceedings. Thus, our narration is taken from the only document provided: the order of the administrative law judge.

6 Greep's representations as to her move-in date have been inconsistent. For example, the decision of the rent board reports that Greep testified that she moved in "over the next 2-3 months" after the execution of the 2015 lease. But Greep's declaration filed in opposition to Grant Ave's motion for summary judgment states Greep did not "fully move in" until early 2016 after she and Linton "spent several months rehabbing" the premises.

7 Greep and Linton entered into this separate settlement agreement in the habitability action Linton filed against the property's prior owner and property manager in August 2016, despite the then-pending bankruptcy proceedings. (See San Francisco Super. Ct. case No. CGC-16-553411.) The habitability action settlement agreement provided for the payment of $1,000 to Linton and the execution of the 2016 lease in exchange for Linton's dismissal of the habitability action. The only evidence of the habitability action in the appellate record is the ex parte application for stipulated judgment in case No. CGC-16-553411, which attached the settlement agreement. Grant Ave filed this document in support of its motion for summary judgment against Greep.

8 At the close of the hearing, the administrative law judge held the record open to allow for additional briefing. Grant Ave timely filed; Greep submitted her brief three days late; however, "[i]n the interests of justice and a complete record, the record was reopened to accept [Greep's] submission into evidence."

9 On November 3, 2022, Grant Ave perfected service of the notice of motion and motion for summary judgment.

10 Further undesignated statutory references are to the Code of Civil Procedure.

11 In so doing, we also note that Linton has defaulted on any potential claim of intervention in Greep's unlawful detainer action. Under section 1174.3, subdivision (a)(1), "any occupant not named in the judgment for possession who occupied the premises on the date of the filing of the action" may file a postjudgment claim of right to possession "up to and including

the time at which the levying officer returns to effect the eviction of those named in the judgment of possession." (See *Crescent Capital Holdings, LLC v. Motiv8 Investments, LLC* (2022) 75 Cal.App.5th Supp. 1, 7–8.) Greep does not dispute that Grant Ave properly served the summons, complaint, and prejudgment claim of right to possession pursuant to section 415.46. Thus, by failing to file a postjudgment claim of right to possession before the levying officer carried out the writ of execution, Linton defaulted on any potential claim. (§ 715.020, subd. (d) ["if the summons, complaint, and prejudgment claim of right to possession were served upon the occupants in accordance with Section 415.46, no occupant of the premises, whether or not the occupant is named in the judgment for possession, may object to the enforcement of the judgment as prescribed in Section 1174.3"]; see also *In re Perl* (9th Cir. 2016) 811 F.3d 1120, 1129 ["Pursuant to ... § 415.46, no occupant of the premises retains any possessory interest of any kind following service of the writ of possession"], fn. omitted.)

End of Document