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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

PAUL ZUPAN,

Defendant and Appellant,

A141780

v.

**(San Francisco County
Super. Ct. No. CGC92942146)**

RN REVIEW FOR NURSES, INC. et al.,

Plaintiffs and Respondents.

RN Review for Nurses, Inc., (RN) obtained a judgment against Paul Zupan in 1992 and renewed the judgment in 2002 and 2012 (Code Civ. Proc., 683.170).¹ The trial court denied Zupan’s motion to vacate the renewals of judgment. He appeals in propria persona, contending: (1) the court misinterpreted the phrase “last known address” in section 683.140; (2) he was not served with the notices of renewal of the judgment under section 683.160; and (3) laches bars the judgment from being renewed. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In the early 1990’s, Zupan embezzled money from RN. RN sued Zupan. In a 1992 stipulated judgment, the court ordered Zupan to pay RN \$86,038.69.² By 1998, Zupan had paid approximately \$84,000 to partially satisfy the judgment. Zupan paid

¹ Unless noted, all further statutory references are to the Code of Civil Procedure.

² Review for Nurses Tapes, Inc., a party to the original judgment, is not a party on appeal.

nothing after 1998. In 2001, attorney Craig Welch wrote to RN's counsel on Zupan's behalf and offered \$34,291.21 "in full satisfaction of the judgment." RN apparently rejected the offer.

On February 13, 2002, RN filed an application to renew the judgment listing Zupan's last known address as 837 Kennedy Street, Suite C, Oakland, California 94606. RN served Zupan with the renewal application by first class mail at that address. That same day, the court issued a notice of renewal of the judgment for \$76,432.30. RN mailed the judgment renewal application and notice of renewal of the judgment to Welch and filed the proof of service. Zupan did not pay the judgment.

On February 8, 2012, RN filed a second application to renew the judgment listing Zupan's last known address as 200 Johnson Street, Sausalito, California 94966. The application noted the judgment had been renewed on February 13, 2002. The court issued a notice of renewal of judgment for \$152,643.32. RN served Zupan with the judgment renewal application and notice of renewal of the judgment at P.O. Box 1028, Sausalito, California 94966. RN filed the proof of service.

In November 2013, Zupan moved to vacate the judgment renewals, claiming he "believed that the matter had been resolved and was complete" because RN had not communicated with him or tried to collect the debt "since 1998." According to Zupan, the "last known address[es]" on the judgment renewal applications were "incorrect[.]" Zupan claimed he did not receive the applications to renew the judgment and, as a result, he "had no way of knowing that [RN] was renewing this judgment" until he received a September 2013 letter from a collection agency indicating he owed \$176,982.61 on the judgment. He acknowledged his delay in filing the motion to vacate, but claimed he "acted diligently in prosecuting" the motion. Finally, Zupan claimed the amount of the 2012 renewed judgment was incorrect, but he could not "produce the evidence required" to dispute the amount because RN had delayed enforcing the judgment. In a supporting declaration, Zupan averred he never "lived nor had a mailing address in Oakland, California" and "never had a mailing address at 200 Johnson Street in Sausalito, California." He also "believe[d]" he "may have destroyed . . . the records related to this

matter” sometime “after 2002 because [he] believed the judgment in this matter had expired.”

In opposition, RN argued Zupan was properly served with the judgment renewal applications and notices of renewal and, as a result, Zupan’s motion to vacate was untimely. RN offered evidence that: (1) in 2001, Welch wrote RN on Zupan’s behalf to settle Zupan’s debt on the judgment; (2) in 2001 or 2002, Zupan was an owner of Intabia, Inc., a California corporation with a principal office at 837 Kennedy Street in Oakland; (3) in 2011, Zupan was a registered agent for service of process of idhra, a California Corporation; (4) idhra’s address was P.O. Box 1028, Sausalito; (5) Zupan’s address as registered agent for idhra was 200 Johnson Street, Sausalito; and (6) idhra’s website listed Zupan as the company’s contact person with a mailing address of P.O. Box 1028, Sausalito.³ In reply, Zupan reiterated his contention that the last known addresses listed on the judgment renewal applications were incorrect, and that he had been prejudiced by RN’s delay in enforcing the judgment.

The court held a hearing and denied Zupan’s motion to vacate the judgment renewals. It concluded the motion was untimely and Zupan had “not shown a basis . . . to vacate the renewal of the judgment.” The court determined Zupan knew the judgment was not satisfied in 2001, when “Welch on his behalf was making overtures to settle.” The court also observed Zupan did not deny receiving mail at P.O. Box 1028 in Sausalito, “which is where the proof of service on the [2012] renewal of notice was sent. It’s also the address that shows up [on] the website for idhra,” which lists Zupan and the P.O. Box 1028, Sausalito, address.

³ We decline to take judicial notice of “[i]dhra’s October 2014 website” and the “California Secretary of State’s Business Entity website” showing idhra’s address as of October 2014 because RN has not filed a request for judicial notice (Cal. Rules of Court, rule 8.252(a)) and because these documents were not before the trial court when it ruled on Zupan’s motion. (*Jordan v. Superstar Sandcars* (2010) 182 Cal.App.4th 1416, 1421, fn. 2.)

DISCUSSION

Zupan contends the court erred by denying his motion to vacate the renewals of judgment. A “money judgment is enforceable for 10 years from the date it is entered.” (*Goldman v. Simpson* (2008) 160 Cal.App.4th 255, 260 (*Goldman*)). “To obtain a renewal of the judgment, the judgment creditor must file an application for renewal with the clerk of the court that entered the judgment before the expiration of the 10-year period of enforceability.” (*Id.* at p. 260; § 683.130, subd. (a).) The application for renewal must contain, among other things, “[t]he name and address of the judgment creditor and the name and last known address of the judgment debtor.” (§ 683.140, subd. (c).) “Upon the filing of the application, the court clerk shall enter the renewal of the judgment in the court records.” (§ 683.150, subd. (a).) “The statutory renewal of judgment is an automatic, ministerial act accomplished by the clerk of the court[.]” (*Goldman, supra*, 260 Cal.App.4th at p. 262; see also Ahart, Cal. Practice Guide: Enforcing Judgments and Debts (The Rutter Group 2014) ¶ 6:75, p. 6A-42.1 (Rutter) [“[f]iling the renewal application . . . results in *automatic* renewal of the judgment”].)

The judgment creditor must “serve a notice of renewal of the judgment on the judgment debtor,” either “personally or by first-class mail and proof of service shall be filed with the court clerk.” (§ 683.160, subd. (a); see also § 683.170, subd. (b).) The judgment debtor has 30 days after service of the notice of renewal of the judgment “to make a motion to vacate or modify the renewal.” (§§ 683.160, subd. (a), 683.170, subd. (b).) The renewal may be vacated ““on any ground that would be a defense to an action on the judgment, including the ground that the amount of the renewed judgment . . . is incorrect[.]”” (*Fidelity Creditor Service, Inc. v. Browne* (2001) 89 Cal.App.4th 195, 198, fn. 2 (*Fidelity Creditor*), quoting § 683.170, subd. (a).) “The judgment debtor bears the burden of proving, by a preponderance of the evidence,” that renewal of the judgment should be vacated under section 683.170. (89 Cal.App.4th at p. 199.) “On appeal, we examine the evidence in a light most favorable to the order . . . and the trial court’s ruling for an abuse of discretion.” (*Ibid.*) To the extent our review involves statutory interpretation and pure questions of law, our review is *de novo*. (*Id.* at p. 200.)

I.

The Motion to Vacate the Judgment Renewals Was Untimely

The court concluded Zupan's motion to vacate the judgment renewals was untimely. "Apparently recognizing that his motion was untimely" (*Goldman, supra*, 160 Cal.App.4th at p. 261), Zupan claims the court misinterpreted "last known address" in section 683.140, subdivision (c). Zupan's reliance on section 683.140, subdivision (c) does not assist him. That statute requires a judgment renewal application to include the "last known address of the judgment debtor[.]" but it does not support Zupan's claim that a judgment renewal is somehow invalid where the judgment debtor disputes the address listed on the application to renew the judgment.

As Zupan concedes, the focus of the Enforcement of Judgments Law is to provide the judgment debtor with notice the judgment has been renewed. (Rutter, *supra*, ¶ 6:76, p. 6A-43.) To this end, section 683.160 requires the judgment creditor to "serve a *notice of renewal* of the judgment on the judgment debtor." (§ 683.160, subd. (a), italics added.) Section 683.170 also requires "service of the *notice of renewal*[.]" (§ 683.170, subd. (b), italics added.) Here, the relevant question is not whether the "last known addresses" listed in RN's judgment renewal applications were correct, but whether RN served Zupan with the 2012 *notice* of renewal of judgment. (See Rutter, *supra*, ¶ 6:80.5, pp. 6A-44-45.) As we discuss below, the answer is yes.

The court determined RN served Zupan with the 2012 judgment renewal notice in accordance with section 683.160, subdivision (a) and section 683.170, subdivision (b), and substantial evidence supports that conclusion. In opposition to the motion to vacate, RN offered evidence that in 2011, Zupan was a registered agent for service of process of idhra, a California Corporation and that idhra's address was P.O. Box 1028, Sausalito. RN also offered evidence that idhra's website listed Zupan as the company's contact person with a mailing address of P.O. Box 1028, Sausalito. In the trial court, Zupan did not deny receiving mail at that post office box. Zupan's disagreement with the court's conclusion that he was properly served with the judgment renewal notice does not demonstrate an abuse of discretion.

The court properly concluded Zupan’s motion to vacate the judgment renewals was untimely. (*Goldman, supra*, 160 Cal.App.4th at p. 261.) As we have stated, a motion to vacate a renewal of judgment must be filed “[n]ot later than 30 days after service of the notice of renewal[.]” (§ 683.170, subd. (b).) RN filed its judgment renewal application on February 8, 2012, and the court clerk entered the renewal on that date. On February 8, 2012, RN also served and filed notice of renewal of the judgment as required by sections 683.160, subdivision (a) and 683.170, subdivision (b). Zupan, however, did not file his motion to vacate the renewals of the judgment until almost 20 months later, on November 4, 2013. “Thus, [Zupan] filed his motion too late” and the court properly denied it. (*Goldman, supra*, 160 Cal.App.4th at p. 261, fn. omitted.)

II.

Zupan Has Not Demonstrated Grounds for Vacating the Judgment Renewals

The trial court also concluded Zupan did not establish “a basis . . . to vacate the renewal of the judgment.” Under section 683.170, subdivision (a), a judgment renewal “may be vacated on any ground that would be a defense to an action on the judgment, including the ground that the amount of the renewed judgment as entered pursuant to this article is incorrect. . . .” Zupan does not articulate a ground for vacating the judgment renewals. Instead, he seems to claim RN’s delay in enforcing the judgment has precluded him from challenging the amount of the judgment.

This argument is puzzling in light of Zupan’s concession that a judgment creditor is “not require[d] . . . to demonstrate diligence in enforcing the judgment[.]” (*OCM Principal Opportunities Fund, L.P. v. CIBC World Markets Corp.* (2008) 168 Cal.App.4th 185, 194 (*OCM*).) In any event, Zupan has not demonstrated the court abused its discretion by declining to apply laches. (*Wolpert v. Gripton* (1931) 213 Cal. 474, 483.) RN is not at fault for Zupan’s mistaken belief the judgment had expired, nor for Zupan’s purported “belie[f]” that he “*may* have destroyed . . . the records related to this matter[.]” (Italics added.) The trio of cases upon which Zupan relies are completely inapposite and do not demonstrate the existence of laches.

Finally, we reject Zupan’s suggestion — unsupported by authority — that he is prejudiced because the balance of the unpaid judgment has “grown over 8,700%” from 1998 to 2013. “Interest accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied.” (§ 685.010, subd. (a).) The amount ultimately required to satisfy a money judgment is “the total amount of the judgment as entered or renewed” with the addition of “interest added to the judgment as it accrues pursuant to Section[] 685.010. . . .” (§ 695.210 subd. (b).) That the judgment renewal provisions incorporate accrued interest does not violate constitutional limits on interest. (*OCM, supra*, 168 Cal.App.4th at p. 195.)

We conclude the court properly denied Zupan’s motion to vacate the renewals of judgment.

DISPOSITION

The order denying Zupan’s motion to vacate the judgment renewals is affirmed. RN is entitled to costs on appeal. (Cal. Rules of Court, rule 8.278(a).)

Jones, P.J.

We concur:

Needham, J.

Bruiniers, J.