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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

PATRICIA HEWLETT,

Plaintiff and Appellant,

v.

JPMORGAN CHASE BANK, N.A., et al.,

Defendants and Respondents.

A145801

(San Mateo County
Super. Ct. No. CIV532455)

Patricia Hewlett filed this action against JPMorgan Chase Bank, N.A. (Chase) and California Reconveyance Company (CRC) for quiet title. The trial court sustained Chase's demurrer without leave to amend, finding Hewlett's action was barred by res judicata. Hewlett, representing herself in propria persona, does not appear to dispute she previously brought a virtually identical claim against Chase and CRC, and final judgment was entered on that claim. She nevertheless argues the order sustaining the demurrer was error. We disagree and affirm.

I. BACKGROUND

This is the fourth action Hewlett has brought against Chase or CRC in connection with the foreclosure of her home. The first was filed in December 2009, when Hewlett sued Chase for breach of contract, unfair business practices, violation of the nonjudicial foreclosure statutes, and improper denial of a modification of a loan secured by a deed of trust on her property. The trial court sustained Chase's demurrer to the original complaint with leave to amend. After further rounds of demurrer, the trial court entered

judgment in favor of Chase on November 4, 2011. Hewlett appealed and this court affirmed.

Hewlett filed a second action against Chase on November 21, 2013. She also named CRC and Shelter Creek Condominium Owners Association (Shelter Creek) as defendants. The complaint asserted causes of action for wrongful foreclosure, fraud, an unspecified “intentional tort,” and negligence based on the assertion the defendants had commenced foreclosure proceedings without right. Chase and CRC’s demurrer to the complaint was sustained without leave to amend and a judgment of dismissal was entered on June 26, 2014.

On June 2, 2014, Hewlett filed a third suit against Chase, CRC, and Shelter Creek asserting a quiet title cause of action. As in her second suit, Hewlett alleged that on or about November 15, 2013, defendants advised her they had sold her home pursuant to a “lien foreclosure,” and defendants were without any right whatever to the subject property. The trial court sustained Chase and CRC’s demurrer to the complaint, finding Hewlett’s action was barred by res judicata and collateral estoppel. Judgment was entered on October 6, 2014.

On February 9, 2015, Hewlett filed the instant action against Chase and CRC, the fourth action she has filed concerning the foreclosure of her property. Once again, Hewlett asserted a single claim for quiet title. The allegations of her complaint are virtually identical to those set forth in her third action. Chase and CRC demurred on res judicata and collateral estoppel grounds, and requested judicial notice of various papers and orders filed in the prior actions. The trial court granted the request for judicial notice and sustained the demurrer without leave to amend, finding the action was barred by res judicata and collateral estoppel. A judgment of dismissal was subsequently entered.

II. DISCUSSION

“ ‘A demurrer tests the legal sufficiency of the complaint’ [Citations.] On appeal from a dismissal after an order sustaining a demurrer, we review the order de novo, exercising our independent judgment about whether the complaint states a cause of action as a matter of law. [Citations.] We give the complaint a reasonable interpretation,

reading it as a whole and viewing its parts in context. [Citations.] We deem to be true all material facts properly pled. [Citation.] We must also accept as true those facts that may be implied or inferred from those expressly alleged. [Citation.] If no liability exists as a matter of law, we must affirm that part of the judgment sustaining the demurrer. [Citation.] [¶] While the decision to sustain or overrule a demurrer is a legal ruling subject to de novo review on appeal, the granting of leave to amend involves an exercise of the trial court’s discretion. [Citations.] When the trial court sustains a demurrer without leave to amend, we must also consider whether the complaint might state a cause of action if a defect could reasonably be cured by amendment.” (*Lazar v. Hertz Corp.* (1999) 69 Cal.App.4th 1494, 1500–1501, fn. omitted.)

Here, the trial court sustained Chase and CRC’s demurrer because it found Hewlett’s claim was barred by res judicata.¹ “ ‘Res judicata’ describes the preclusive effect of a final judgment on the merits. Res judicata, or claim preclusion, prevents relitigation of the same cause of action in a second suit between the same parties or parties in privity with them. . . . Under the doctrine of res judicata, . . . a judgment for the defendant serves as a bar to further litigation of the same cause of action. [¶] A clear and predictable res judicata doctrine promotes judicial economy. Under this doctrine, all claims based on the same cause of action must be decided in a single suit; if not brought initially, they may not be raised at a later date. ‘ ‘Res judicata precludes piecemeal litigation by splitting a single cause of action or relitigation of the same cause of action on a different legal theory or for different relief.’ ’ ” (*Mycogen Corp. v. Monsanto Co.* (2002) 28 Cal.4th 888, 896–897, fn. omitted.)

We agree with the trial court that res judicata bars Hewlett’s claims here. Hewlett asserted a virtually identical claim against Chase and CRC in a prior action. Chase and CRC’s demurrer to that claim was sustained without leave to amend and final judgment of dismissal was subsequently entered. Accordingly, Hewlett cannot try to relitigate that

¹ Because we find res judicata bars Hewlett’s action, we need not and do not consider whether the action is also barred by collateral estoppel.

claim now.² Hewlett argues her prior actions are distinguishable because more evidence continues to emerge compelling amendments to her claims. But she does not say what that evidence is or when she discovered it, and she certainly has not pleaded any new facts. In any event, as discussed, res judicata precludes piecemeal litigation of a claim. Moreover, contrary to Hewlett's contentions, there was nothing improper about sustaining a demurrer on res judicata grounds. (*Garcia v. Garcia* (1957) 148 Cal.App.2d 147, 152.)

The other arguments raised in Hewlett's appeal may be quickly dismissed. Hewlett argues the trial court erred in taking judicial notice of the documents filed in the prior cases. The contention is meritless as the records of any court of this state are properly subject to judicial notice. (Evid. Code, § 452, subd. (c).) Hewlett contends the order on the demurrer was error because she sufficiently pleaded a quiet title action. However, because Hewlett's action is barred by res judicata, the adequacy of her pleading is irrelevant. Next, Hewlett suggests the trial court abused its discretion by denying her leave to amend because she could amend her pleading to "change its legal effect." But she fails to explain how she could plead around the prior judgment or identify any new facts which would support a cognizable claim. Hewlett asserts that, under Code of Civil Procedure section 764.010, default judgment is inappropriate in a quiet title action. Of course, default judgment was not entered in this case, so section 764.010 is inapplicable. Finally, Hewlett asserts Chase and CRC have admitted she owns the property. Setting aside that we need not consider the merits of Hewlett's claims because they are barred by res judicata, Hewlett provides no specific evidence that would support her assertion.

As Hewlett has failed to demonstrate any error, we affirm.

III. DISPOSITION

The judgment is affirmed. Defendants may recover their costs on appeal.

² That Hewlett has asserted the same claim in four separate actions suggests she may be a vexatious litigant. Absent a vexatious litigant motion, we decline to render a decision on this issue.

Margulies, J.

We concur:

Humes, P.J.

Dondero, J.

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