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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

DANNY O. URBINA,

Plaintiff and Appellant,

v.

CARRINGTON MORTGAGE  
SERVICES, et al.,

Defendants and Respondents.

B236250

(Los Angeles County  
Super. Ct. No. BC444874)

APPEAL from a judgment of the Superior Court of Los Angeles County. Mary A. Strobel, Judge. Affirmed.

Danny O. Urbina, in pro. per., for Plaintiff and Appellant.

Wolfe & Wyman, Stuart B. Wolfe and Samantha N. Lamm for Defendants and Respondents.

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Danny Urbina appeals from the judgment dismissing his action against Carrington Mortgage Services and Mario Duarte. On appeal, he contends the demurrer was improperly sustained and that he should have been given leave to amend his complaint. He also argues that his former attorney failed to oppose the defendants' demurrer or to appear at the hearing on the demurrer, thereby causing the dismissal of the action. We affirm.

### **FACTUAL AND PROCEDURAL BACKGROUND**

Urbina and others filed suit against multiple defendants on September 3, 2010. The complaint is not included in the record. In a case management statement, Urbina characterized the action as involving "fraud in the foreclosure of the residence, Breach of Contract, Quiet Title, Conspiracy, Economic Dur[.]less and other causes of action relating to a real property transaction involving Rosa Urbina and the other plaintiffs with CMS Carrington Mortgage Services, Mario Duarte, Ziola M. Guzman and the other defendants whereby the plaintiffs have been cheated out of approximately \$80,000.00 and had their real property foreclosed upon pursuant to a conspiracy even though plaintiffs had made payments pursuant to a loan."

On April 14, 2011, the defendants filed a demurrer to the First Amended Complaint. The First Amended Complaint is not in the record. On June 30, 2011, the trial court sustained the demurrer without leave to amend. The court dismissed the action on July 27, 2011. Urbina appeals.

### **DISCUSSION**

Urbina argues that the demurrer was erroneously sustained because the causes of action in the First Amended Complaint were properly pleaded. In the alternative, he contends that the court abused its discretion in denying leave to amend. Urbina, however, failed to provide the original complaint and the First Amended Complaint as part of the record on appeal, and we are therefore unable to review the court's decision or

assess the arguments made on appeal.<sup>1</sup> The party seeking to challenge a ruling on appeal has the burden of providing a record adequate to evaluate the claimed error. (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295-1296.) Where a party fails to furnish an adequate record of the challenged proceedings, his claim on appeal must be resolved against him. (*Ibid.*; *Rancho Santa Fe Association v. Dolan-King* (2004) 115 Cal.App.4th 28, 46.) Because Urbina has not provided the relevant pleadings to permit us to determine whether the demurrer was properly sustained and whether the denial of leave to amend was appropriate, we must resolve these issues against him.

The failure to provide an adequate record also prevents this court from reviewing Urbina's allegation of inadequate representation by his former attorney in conjunction with the demurrer. The record demonstrates that by the time of the demurrer hearing Urbina was represented by new counsel but it does not permit this court to evaluate whether the counsel of whom he complains represented him at the relevant time, whether any legal representation was in fact deficient, or whether any deficiency in representation prejudiced Urbina with respect to the ruling on the demurrer. Accordingly, we must resolve this issue against Urbina as well. (*Maria P. v. Riles, supra*, 43 Cal.3d at pp. 1295-1296; *Rancho Santa Fe Association v. Dolan-King, supra*, 115 Cal.App.4th at p. 46.)

### DISPOSITION

The judgment is affirmed. Respondents shall recover their costs on appeal.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.\*

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<sup>1</sup> The original complaint is necessary to our review because the trial court ruled that the First Amended Complaint was a sham pleading containing allegations that contradicted the allegations in the original complaint without explanation.