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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

MANEVA A. CURRIE,

Plaintiff and Appellant,

v.

ROBERT J. JACKSON & ASSOCIATES,
INC.,

Defendant and Respondent.

B237126

(Los Angeles County Super. Ct.
No. SC108184)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Elizabeth Allen White, Judge. Affirmed.

Maneva A. Currie, in pro. per., for Plaintiff and Appellant.

Wright, Finlay & Zak, Jonathan D. Fink and Magdalena D. Kozinska for
Defendant and Respondent.

Plaintiff and appellant Maneva A. Currie appeals from a judgment following an order granting a special motion to strike under the anti-SLAPP statute,¹ Code of Civil Procedure section 425.16 in favor of respondent law firm Robert J. Jackson & Associates, Inc. (Jackson), in this action arising out of a foreclosure on residential property. Currie contends the trial court should have allowed her leave to amend her complaint. We conclude the anti-SLAPP statute does not allow leave to amend under the circumstances of this case. Therefore, we affirm

BACKGROUND

Facts Alleged in the Operative Complaint

On April 1, 2009, Currie rented a house in Los Angeles for a two-year term and a monthly rent of \$750. She lived in the house with her adult child Miranda White and her two minor children. A single man rented the detached garage unit from the owner.

In July 2009, One West Bank, FSB, FKA IndyMac Bank, FSB purchased the house at a foreclosure sale. Currie spoke with a realtor for One West about relocation expenses and the conditions around the house that required repair. Currie submitted a form to One West describing her lease and her concerns about habitability issues.

On November 10, 2009, Currie contacted One West's attorney at Jackson with the information that she had located a prospective residence. The attorney said Currie was not being asked to move and was not given notice of a request to move. However, the attorney asked Currie to submit a written request for relocation costs along with the prospective residential lease.

¹ “SLAPP is an acronym for ‘strategic lawsuit against public participation.’” (*Jarrow Formulas, Inc. v. LaMarche* (2003) 31 Cal.4th 728, 732, fn. 1.)

On November 16, 2009, Currie received a notice to cure or quit which stated that she had failed to provide access for the purpose of inspections, repairs, and showing the unit to prospective buyers. However, Currie had not failed to provide access.

On November 18, 2009, Currie signed a lease to move into a new residence on January 1, 2010, contingent upon receipt of \$6,000 from One West. Currie faxed documents to Jackson the following day. Despite multiple telephone calls in which she left messages, she never heard from Jackson. In January 2010, Currie's attorney, Matthew May, told her that he had called Jackson to discuss relocation costs and habitability issues.

On February 4, 2010, One West served Currie, White, and the minor children with a three-day notice to pay rent or quit. The notice stated that Currie had not paid rent since August 2009. On February 16, 2010, One West filed an unlawful detainer action against Currie, White, and the minor children. On February 23, 2010, Currie filed an answer to One West's unlawful detainer action on behalf of herself and her children.

The next day, Currie received a stipulation in the mail from One West offering \$6,000 in exchange for Currie to vacate by March 18, 2010. However, the offer did not give Currie enough time to find another residence. On March 17, 2010, the man living in the garage unit on the property relocated.

On March 23, 2010, Currie received an entry of default. Currie appeared on April 12, 2010, in connection with the unlawful detainer action and learned that One West was dismissing the case. On April 15, 2010, one of Currie's minor children was served with a notice to vacate the rear unit on the property within five days or One West would proceed with forcible entry and detainer proceedings.

On April 21, 2010, a notice of intent to enter the main house was posted at the property to allow One West to cure code violations set forth in a notice of violation issues by the County of Los Angeles, Department of Public Health. On April 22, 2010, Currie filed a complaint with the Office of the District Attorney, Consumer Protection Division about One West's practices. On April 26, 2010, One West's realtor, Benedict Garcia, told Currie that he met with Jackson, explained that she had been ignored and had lost her

prospective residence. Garcia told her that Jackson again offered \$6,000. Currie said she had been forced to take legal action against One West.

On April 28, 2010, Currie spoke to May by telephone. In this conversation, May was adamant that he had never said he spoke to anyone at Jackson. He explained that someone else in his office had spoken to someone at Jackson.

On May 2, 2010, a notice to cure or quit the main house was placed on her front porch concerning access to cure code violations. On May 8, 2010, Currie received copies of unlawful detainer actions filed by One West as to the rear unit on the property. Currie filed an answer. Prowlers tried to break into a building on the property and someone broke into her car the following night. On May 20, 2010, Currie heard from an environmental health specialist at the County of Los Angeles, Department of Public Health. The specialist said he had met with One West concerning repairs to the house. One West claimed that Currie was not available for repairs, which she denied. An unknown person watched and followed her but later went into a neighbor's home. Currie has not been able to return to work due to stress.

Procedural Background

On May 27, 2010, Currie and her children filed a complaint against One West and other defendants. On July 6, 2010, One West obtained a judgment against Currie and White for possession of the rear unit on the property. On December 14, 2010, Currie and her children filed the operative verified second amended complaint against One West and other defendants. The complaint alleged causes of action for wrongful forcible entry and detainer proceedings, breach of the covenant of quiet enjoyment, fraud and deceit, injunctive relief, unlawful eviction proceedings, discrimination, defamation, landlord retaliation, quiet title and declaratory relief, breach of contract, legal malpractice, unfair competition, and intentional and negligent infliction of emotional distress. That same day, Currie filed an amendment substituting US Bank as a Doe defendant, based on a

corrected grant deed showing US Bank was the true owner of the property after the foreclosure.

On April 20, 2011, Currie filed an amendment to the second amended complaint substituting Jackson as a Doe defendant. On June 15, 2011, Jackson filed an anti-SLAPP motion and a demurrer. Currie did not file an opposition to either pleading. A hearing was held on August 25, 2011. Currie requested leave to amend, which the trial court denied. The court granted the anti-SLAPP motion and awarded attorney fees of \$1,575 to Jackson. As a result, the court found the demurrer was moot. A judgment of dismissal based on the order granting the motion to strike was entered on September 7, 2011. Currie filed a timely notice of appeal.

Additional Allegations on Appeal

Currie states in her brief on appeal that the motion to strike prevented her from amending her complaint to allege that Jackson led a conspiracy to force her to move out rapidly and involuntarily. She would allege that she had a right to use the garage. The notices that she received of intent to enter, to pay rent or quit, to vacate, and to cure or quit constituted a pattern of harassment in violation of her tenant rights. In addition, the unlawful detainer actions that Jackson filed against her on behalf of One West were an unfair business practice, filed with malice and without probable cause, to force her from her home in violation of the local rent stabilization ordinance.

DISCUSSION

On appeal, Currie does not contend that the motion to strike should have been denied. Rather, she contends the trial court should have granted her leave to amend to include allegations of conspiracy and unfair business practices against Jackson. We disagree.

“The trial court engages in a two-step process to determine whether to grant or deny a [Code of Civil Procedure] section 425.16 motion to strike. (*Navellier v. Sletten* (2002) 29 Cal.4th 82, 88 (*Navellier*.) The court first decides whether the defendant has made a threshold showing that the acts at issue arose from protected activity. ([Code Civ. Proc.], § 425.16, subd. (b)(1); *Navellier, supra*, at p. 88.) Once the defendant meets this burden, then the court determines whether the plaintiff has demonstrated a probability that he or she will prevail on the claim. (*Ibid.*) On appeal, we independently review whether [Code of Civil Procedure] section 425.16 applies and whether the plaintiff has a probability of prevailing on the merits. (*ComputerXpress, Inc. v. Jackson* (2001) 93 Cal.App.4th 993, 999; *Lieberman v. KCOP Television, Inc.* (2003) 110 Cal.App.4th 156, 163–164.)” (*Summerfield v. Randolph* (2011) 201 Cal.App.4th 127, 135.)

However, “[Code of Civil Procedure] section 425.16 provides no mechanism for granting anti-SLAPP motions *with leave to amend*. (*Simmons [v. Allstate Ins. Co.* (2001)] 92 Cal.App.4th [1068,] 1072–1074; *Sylmar [Air Conditioning v. Pueblo Contracting Services, Inc.* (2004)] 122 Cal.App.4th [1049,] 1055]; *Schaffer [v. City and County of San Francisco* (2008)] 168 Cal.App.4th [992,] 1004–1005.) Trial courts should either grant or deny such motions *in toto*, i.e., without leave to amend, prior to ruling on any pending demurrers. A proper ruling on the anti-SLAPP motion would, in most cases, obviate the need to rule on the demurrer at all or, at the very least, in its entirety.” (*Martin v. Inland Empire Utilities Agency* (2011) 198 Cal.App.4th 611, 629 [order granting anti-SLAPP motion with leave to amend was the functional equivalent of an order denying anti-SLAPP motion because defendants could not meet their burden under the first prong].)

Currie has not provided argument or evidence that the motion to strike should have been denied. (Cf. *Nguyen-Lam v. Cao* (2009) 171 Cal.App.4th 858, 871-872 [order granting motion to strike with leave to amend effectively denied motion to strike because plaintiff’s evidence demonstrated a probability of prevailing under the second prong].) There is no right to amendment under the circumstances of this case. Therefore, the order granting the motion to strike and the judgment of dismissal were proper.

DISPOSITION

The judgment is affirmed. Respondent Robert J. Jackson & Associates, Inc., is awarded its costs on appeal.

KRIEGLER, J.

We concur:

ARMSTRONG, Acting P. J.

MOSK, J.