

**NOT TO BE PUBLISHED**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**THIRD APPELLATE DISTRICT**

**(Sacramento)**

----

TRANG PHAN,

Plaintiff and Appellant,

v.

ROBERT ALAS,

Defendant and Respondent.

C067512

(Super. Ct. No. 34-2009-  
00035074-CU-BC-GDS)

Trang Phan brings this pro se judgment roll appeal from the judgment entered after a court trial, and the court's subsequent denial of her motion for a new trial. We find Phan has forfeited her claims of error, however, because she failed to comply with the rules of appellate procedure, including the rules requiring her to provide an adequate record for review and to show exactly how the trial court committed prejudicial error. We shall affirm the judgment.

## FACTUAL AND PROCEDURAL BACKGROUND

From the limited information we can glean from the record on appeal, it appears Phan brought this action against Robert Alas to recover monies she contends she loaned to Alas and he failed to repay.<sup>1</sup> After a court trial—the transcript of which is not in the record on appeal—the court found Phan had not proven her case and entered judgment in Alas's favor.<sup>2</sup>

Phan then moved for a new trial. The motion itself is not in the record, but Phan's December 28, 2010 declaration in support of the new trial motion states, "I am the plaintiff in this matter. [¶] My first language is Vietnamese. I speak and understand some English, but not enough to conduct a trial properly. [¶] When I went to trial, I had a friend with me to help me communicate in English, but wasn't allowed to use him to translate. [¶] I was not given the opportunity to attempt to locate a certified translator, and was instead required to present my case in English. [¶] I was surprised that I could not use my friend to interpret because the court interpreter's brochure, available online at <<http://www.saccourt.ca.gov/general/brochures/docs/court-interpreter-services.pdf>> says (about civil and family law cases): 'In these cases, you should arrange in advance of an assigned court date for a family member or friend

---

<sup>1</sup> The pleadings are not in the record on appeal. Some of the documents in the record indicate there may have been a second defendant named Thuy Le.

<sup>2</sup> In her appellant's brief on appeal, Phan purports to quote from the trial court's "minute order" or "final ruling," but she did not include it in the record on appeal.

to serve as an interpreter[;] or you, or your attorney[, ] may hire an interpreter.' In this case, I did just that, I arranged to have a friend interpret. [¶] This was a nearly impossible task. [¶] Even so, I cannot understand how I lost completely, and how the court found that I had not established that any of the money was a loan, since several of the checks entered as exhibits had the word 'loan' written on them, and the defendant did not dispute agreeing to pay me back some of the money. [¶] I am asking for a new trial because the refusal to allow me an opportunity to secure a certified translator prevented me from fairly presenting my case." (Paragraph numbering omitted.)

Following a hearing at which Phan and Alas appeared and argued (the transcript of which is not in the record on appeal), the trial court denied Phan's motion for a new trial.

## **DISCUSSION**

### **I. Standard of Review**

Before discussing Phan's appellate contentions, we set forth various rules applicable to our review.

A judgment or order of the trial court is presumed to be correct, and all intendments and presumptions are indulged to support it on matters as to which the record is silent. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564; *In re Marriage of Gray* (2002) 103 Cal.App.4th 974, 977-978.) It is the appellant's burden to affirmatively demonstrate reversible error. (*Denham*, at p. 564; *In re Marriage of Gray*, at pp. 977-978.)

The appellant's burden includes: (1) providing an adequate record that affirmatively demonstrates error; (2) supporting all appellate arguments with legal analysis and appropriate citations to the material facts in the record; and (3) showing exactly how the error caused a miscarriage of justice, or else his or her contentions are deemed forfeited. (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295; *City of Lincoln v. Barringer* (2002) 102 Cal.App.4th 1211, 1239-1240; *In re Marriage of McLaughlin* (2000) 82 Cal.App.4th 327, 337; *Hernandez v. California Hospital Medical Center* (2000) 78 Cal.App.4th 498, 502; *Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784-785.)

Because Phan has elected to proceed on a limited clerk's transcript—with no transcript or settled statement of the trial or hearing on her motion for a new trial—we must treat this as an appeal "on the judgment roll," to which the following rules apply: "'Error must be affirmatively shown by the record and will not be presumed on appeal [citation]; the validity of the judgment on its face may be determined by looking only to the matters constituting part of the judgment roll [citation]; where no error appears on the face of a judgment roll record, all intendments and presumptions must be in support of the judgment [(citation)] [citation]; the sufficiency of the evidence to support the findings is not open to consideration by a reviewing court [citation]; and any condition of facts consistent with the validity of the judgment will be presumed to have existed rather than one which would defeat it.'" (*Ford v. State of California*

(1981) 116 Cal.App.3d 507, 514, overruled on other grounds in *Duran v. Duran* (1983) 150 Cal.App.3d 176, 177-179; *Allen v. Toten* (1985) 172 Cal.App.3d 1079, 1082-1083; Cal. Rules of Court, rule 8.163.)

In sum, our review of a judgment roll appeal is limited to determining whether any error "appears on the face of the record." (*National Secretarial Service, Inc. v. Froehlich* (1989) 210 Cal.App.3d 510, 521; Cal. Rules of Court, rule 8.163.)

Lack of legal counsel does not entitle a litigant to special treatment. A party representing herself is to be treated like any other party and is entitled to the same, but no greater, consideration than other litigants and attorneys. (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1246-1247; see *Leslie v. Board of Medical Quality Assurance* (1991) 234 Cal.App.3d 117, 121 [self-represented parties are held to the "the same 'restrictive procedural rules as an attorney'"].)

With these rules in mind, we turn to Phan's appellate contentions.

## **II. Phan Has Not Shown Reversible Error**

In her appellate brief, Phan asserts the court erred at trial in inadvertently excluding some items of evidence that should have been admitted. She devotes most of her brief to advocating that the evidence adduced at trial constituted clear and convincing proof that she loaned more than \$44,000 to Alas, which the court should have found he is obligated to repay.

Phan's failure to provide a transcript or settled statement of the trial prevents our entertaining these arguments. Without either, we cannot assess whether the evidence supports the court's conclusion that Phan failed to prove that she loaned money to Alas, and whether the court correctly admitted evidence at trial. Without any means of evaluating these matters for ourselves, for example, we must assume the trial court did the right thing when it admitted evidence or ruled on objections because we must presume on appeal that official duties have been regularly performed (Evid. Code, § 664), and this presumption extends to the actions of trial judges (*People v. Duran* (2002) 97 Cal.App.4th 1448, 1461, fn. 5; *Olivia v. Suglio* (1956) 139 Cal.App.2d 7, 8-9 ["If the invalidity does not appear on the face of the record, it will be presumed that what ought to have been done was not only done but rightly done."].)

For the same reasons, we cannot assess Phan's claim on appeal that the trial court erred in refusing to allow her friend to act as interpreter or erred in failing to continue the trial so she could obtain a court-approved interpreter. An interpreter must be appointed for any witness "incapable of understanding" English or "incapable of expressing himself or herself" in English "so as to be understood directly by counsel, court, and jury." (Evid. Code, § 752, subd. (a); see *Jara v. Municipal Court* (1978) 21 Cal.3d 181, 183.) But Phan herself admitted in her motion for a new trial she speaks and understands some English and, absent a transcript of the trial

proceeding, we presume the trial court's decision to proceed with the trial without a court-approved interpreter would be supported by a record, which would show an interpreter was not necessary because Phan was capable of understanding or expressing herself in English.

Because Phan has not provided an appellate record showing error, her contentions are deemed forfeited.

**DISPOSITION**

The judgment is affirmed. Each party shall bear his or her own costs on appeal. (Cal. Rules of Court, rule 8.278(a)(5).)

\_\_\_\_\_  
BUTZ, J.

We concur:

\_\_\_\_\_  
HULL, Acting P. J.

\_\_\_\_\_  
MAURO, J.