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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

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JENIFER LINDSAY, as Successor Trustee,  
etc., et al.,

Plaintiffs, Cross-Defendants  
and Appellants,

v.

KENNETH O. FLETCHER, as Trustee, etc.,

Defendant, Cross-Complainant  
and Respondent.

C069656

(Super. Ct. No. 167312)

Robert Read and Lyn Read (as trustees of The Read Family Trust) brought this action against Kenneth O. Fletcher (as trustee of the Kenneth O. Fletcher Revocable Family Trust) to quiet title to a nonexclusive prescriptive easement over a bridge and roadway that the Reads contend provide the only access to property owned by their trust. Fletcher cross-complained against the Reads, seeking a judicial declaration that they have no interest in the bridge or roadway over the real property at issue.

Following an unreported court trial, the court entered judgment in Fletcher's favor on both the complaint and the cross-complaint.

The Reads<sup>1</sup> contend on appeal that the trial court's decision is unsupported by the facts because there "simply was no evidence" to support the court's decision, and the court erred in granting Fletcher declaratory relief because there is no actual controversy between the parties.

We find the Reads have forfeited their claims of error because they have failed to comply with the rules of appellate procedure requiring them to provide an adequate record for appellate review and to show exactly how the trial court committed reversible error. We shall affirm the judgment.

#### BACKGROUND

In light of the limited record on appeal, we glean the following facts concerning the parties' underlying dispute.

The Reads once owned ranch property on both west and east sides of the Fall River, together with a bridge that "tied" the two sections together. Over time, the bridge failed. When the Reads sold their property on the west side of the river, they neglected to obtain or reserve any right of access allowing access to the public road across the river.

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<sup>1</sup> The appeal is brought by Jenifer Lindsay, successor trustee to the Read Family Trust. We refer to appellants as the Reads.

The Reads ultimately initiated this lawsuit against Fletcher (the owner of adjacent property) and others.<sup>2</sup> In their second amended complaint to quiet title (the only complaint in the record on appeal), the Reads claimed a nonexclusive prescriptive easement across the road and bridge owned by Fletcher, and they alleged Fletcher has wrongfully interfered with their access to the bridge and roadway that provides the only means of access to their property. The Reads alleged the existence of an actual controversy between the parties and sought a judicial determination of the existence and ownership of the easement.

Fletcher answered the complaint and filed a cross-complaint, in which he also alleged the existence of an actual controversy between the parties by virtue of the Reads' assertion of an easement across his property. He also sought a judicial declaration that the Reads have no right of access across his property.

In his trial brief, Fletcher asserted that, because discovery in this case established that the Reads' use of the easement on his property was with his permission, no prescriptive use may be shown. If the Reads submitted a trial brief, they did not include it in the record on appeal.

The matter was tried to the court. No reporter's transcript of the trial appears in the appellate record. After

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<sup>2</sup> Other named defendants were dismissed prior to trial.

hearing the testimony and evidence, the trial court found Fletcher entitled to judgment both on the Reads' complaint, and on his cross-complaint. The court found that the Reads have no interest in the bridge or adjacent road on Fletcher's property and entered a permanent injunction prohibiting them from using the bridge or road to access their property.

## DISCUSSION

### I

#### *Applicable Standards Of 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 the Reads have elected to proceed on a limited clerk's transcript -- with no transcript or settled statement of the 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.)

## II

### *The Reads Have Not Shown Reversible Error*

In their appellate brief, the Reads assert there "simply was no evidence" to support the trial court's judgment and the court erred in granting Fletcher declaratory relief because there is no actual controversy between the parties.

The Reads' 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 conclusions that the Reads failed to establish a prescriptive easement over Fletcher's property and that the parties had an actual dispute that warranted granting Fletcher the relief he sought. Without any means of evaluating these matters for ourselves, we must presume the trial court's findings of fact are supported by substantial evidence, and its conclusions of law -- including that a declaratory judgment was warranted -- are binding upon us unless error appears on the face of the record. (Cal. Rules of Court, rule 8.830(b); *Bond v. Pulsar Video Productions* (1996) 50 Cal.App.4th 918, 924.) The Reads do not contend that any error appears on the face of the appellate record, and our review of the record reveals none.

Because the Reads have not provided an appellate record showing error, their contentions are deemed forfeited.

DISPOSITION

The judgment is affirmed. Fletcher shall recover his costs on appeal. (Cal. Rules of Court, rule 8.278(a)(1), (2).)

\_\_\_\_\_ ROBIE \_\_\_\_\_, J.

We concur:

\_\_\_\_\_ RAYE \_\_\_\_\_, P. J.

\_\_\_\_\_ BLEASE \_\_\_\_\_, J.