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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sutter)

FARMERS STATE BANK,	C069779
Plaintiff and Respondent,	(Super. Ct. No. CVCS111583)
v.	
RUBY M. SPEAKER,	
Defendant and Appellant.	

Farmers State Bank obtained a default judgment against Ruby M. Speaker in a Montana state court and registered that judgment here under the California Sister State Judgments Act (the Act) (Code Civ. Proc.,¹ § 1710.10 et seq.). Speaker then moved unsuccessfully to vacate the California judgment, claiming (among other things) that she should now be permitted to raise certain “viable” substantive defenses she could have raised to the bank’s action, had it been initially filed in California.

¹ Unspecified statutory references are to the Code of Civil Procedure.

In this judgment roll appeal from the trial court order denying her motion to vacate the California judgment, Speaker renews her claim she should now be permitted to raise the "multiple defenses available to her under California law." We disagree and shall affirm the judgment.

BACKGROUND

Farmers State Bank is a financial institution licensed in Montana. Speaker is a resident of Sutter County.

In 2008, Speaker signed a promissory note in favor of the bank of approximately \$400,000. Her daughter and son-in-law, the Swansons, were coborrowers, and the loan was intended to finance the purchase of commercial real property in Montana, on which the Swansons intended to operate a restaurant. The loan was refinanced in 2009; Speaker and the Swansons were also coborrowers on the 2009 promissory note. Both notes provided that, in the event of a lawsuit, Speaker agreed to submit to the jurisdiction of the courts in Ravalli County, Montana, and that Montana law would apply to any dispute (to the extent not preempted by federal law).

The loan went into default. The bank foreclosed upon its collateral, applied the proceeds to the debt, and initiated a lawsuit against the Swansons and Speaker in Ravalli County, Montana. The Swansons obtained a discharge of their obligation to the bank in a bankruptcy court proceeding.

Speaker was served in California with the summons and complaint in the Montana action, but filed no response. The bank caused Speaker's default and default judgment to be entered and obtained a deficiency judgment against her in the amount of \$158,054.71.

The bank filed an application in Sutter County for entry of judgment on sister-state judgment. Judgment was entered in Sutter County against Speaker in the amount of \$168,283.31 (the amount of the Montana judgment plus interest and filing fees).

Speaker filed a motion to vacate the California judgment entered pursuant to the Act, on the grounds the Montana court lacked jurisdiction over her; she has "viable defenses" to the civil action, had it been filed in California (including failure of consideration, lack of reliance, lack of disclosure, and lack of legal standing); she did not receive notice of the Montana proceedings in sufficient time to defend herself; and Montana was a "seriously inconvenient forum." Speaker argued in support of her motion that, when she signed the promissory notes, she believed that the obligation to the bank was fully secured.

The bank opposed the motion and there was a hearing at which both sides appeared and argued, although no reporter's transcript of those proceedings appears in the record.

DISCUSSION

I

Sister State Judgment

Article IV, section 1 of the United States Constitution provides that "[f]ull faith and credit shall be given in each

state to the public acts, records and judicial proceedings of every other state." The purpose of this clause "was to alter the status of the several states as independent foreign sovereignties, each free to ignore obligations created under the laws or by the judicial proceedings of the others, and to make them integral parts of a single nation throughout which a remedy upon a just obligation might be demanded as of right, irrespective of the state of its origin.'" (*Bank of America v. Jennett* (1999) 77 Cal.App.4th 104, 113, citing *Milwaukee County v. White Co.* (1935) 296 U.S. 268, 277 [80 L.Ed. 220, 228].) Under the full faith and credit clause, "[a] final judgment in one State, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land." (*Baker v. General Motors Corp.* (1998) 522 U.S. 222, 233 [139 L.Ed.2d 580, 592].)

In order to enforce a sister state judgment, it is first necessary to obtain a domestic judgment on it. (8 Witkin, Cal. Procedure (5th ed. 2008) Enforcement of Judgment, § 453, p. 490.) The California Legislature enacted the Act (§ 1710.10 et seq.) to provide an economical and expeditious means for doing so. (*Bank of America v. Jennett, supra*, 77 Cal.App.4th at p. 114.) A California judgment can be obtained simply by registering the sister state judgment with the superior court, "thus avoiding the necessity of bringing a completely independent action" on the sister state judgment. (*Washoe Development Co. v. Guaranty Federal Bank* (1996) 47 Cal.App.4th

1518, 1522 (*Washoe*).) "With certain statutory exceptions, the new judgment has the same effect as an original California money judgment and 'may be enforced or satisfied in like manner.' (§ 1710.35.)" (*Ibid.*)

The Act also provides the exclusive means for attacking a judgment entered on a sister state judgment. (*Liquidator of Integrity Ins. Co. v. Hendrix* (1997) 54 Cal.App.4th 971, 973-979 [§ 473 not applicable to vacate judgment entered on sister state judgment]; but see *Tsakos Shipping & Trading, S.A. v. Juniper Garden Town Homes, Ltd.* (1993) 12 Cal.App.4th 74, 94 (*Tsakos*) [grounds for vacation of judgment entered on sister state judgment include mistake, surprise, or excusable neglect as provided in § 473].) Section 1710.40, subdivision (a) provides: "A judgment entered pursuant to this chapter may be vacated on any ground which would be a defense to an action in this state on the sister state judgment, including the ground that the amount of interest accrued on the sister state judgment and included in the judgment entered pursuant to this chapter is incorrect." (*Italics added.*)

Although the Act does not elaborate regarding the defenses that may be asserted on a sister state judgment, the Law Revision Commission comments to section 1710.40 state: "Common defenses to enforcement of a sister state judgment include the following: the judgment is not final and unconditional (where finality means that no further action by the court rendering the judgment is necessary to resolve the matter litigated); the judgment was obtained by extrinsic fraud; the judgment was

rendered in excess of jurisdiction; the judgment is not enforceable in the state of rendition; the plaintiff is guilty of misconduct; the judgment has already been paid; suit on the judgment is barred by the statute of limitations in the state where enforcement is sought." (Cal. Law Revision Com. com., 20 West's Ann. Code Civ. Proc. (2007 ed.) foll. § 1710.40, p. 385.)

Apart from these defenses, "'California must, regardless of policy objections, recognize the judgment of another state as res judicata, and this is so even though the action or proceeding which resulted in the judgment could not have been brought under the law or policy of California.'" [Citation.]" (*Silbrico Corp. v. Raanan* (1985) 170 Cal.App.3d 202, 207; *Traci & Marx Co. v. Legal Options, Inc.* (2005) 126 Cal.App.4th 155, 160-161 [on motion to vacate, California law not relevant to question whether default sister-state judgment was enforceable in Ohio, the state of rendition]; *Washoe, supra*, 47 Cal.App.4th at pp. 1522-1524 [vacation of judgment entered on Nevada judgment not properly granted on grounds that judgment would have been precluded in California based on antideficiency laws].)

On a judgment debtor's motion to vacate a California judgment entered on a sister state judgment, the moving party bears the burden of showing by a preponderance of the evidence why relief should be afforded. (*Tsakos, supra*, 12 Cal.App.4th at p. 88; *Tom Thumb Glove Co. v. Han* (1978) 78 Cal.App.3d 1, 5.) The trial court's ruling on the motion is reviewed for abuse of discretion. (*Tsakos, supra*, 12 Cal.App.4th at pp. 88-89.) In

so doing, we view all factual matters most favorably to the party prevailing below and shall not set aside the trial court's order unless there appears a clear abuse of discretion.

(*Tsakos*, at p. 89.)

II

Speaker Has Failed To Show An Abuse Of Discretion

Speaker insists on appeal that she was denied the opportunity to present the "multiple defenses available to her under California law," including such "defenses available to a[ny] party in a breach of contract action"; that the Montana court lacked personal jurisdiction over her; lack of reliance by the bank; lack of consideration for Speaker's promise to repay the bank; lack of disclosure that Speaker could be responsible for a deficiency judgment; unfairness in the bank's conduct of the foreclosure sale; the "possib[ility]" that the bank may have engaged in misconduct; and that the bank lacks standing to seek entry of a California judgment because it is not licensed in California.

However, Speaker neither acknowledges the applicable standard of review nor provided an appellate record from which such abuse may be shown. An appellant cannot obtain reversal of a trial court's discretionary ruling on the basis of abuse of discretion when, as here, there is no record explaining the trial court's reasoning. Instead, general principles of appellate review require us to accord a presumption of correctness to the ruling below and an appellant must affirmatively show error on an adequate record (*Ketchum v. Moses*

(2001) 24 Cal.4th 1122, 1140-1141), coupled with the presentation of argument and authorities on each point raised (*People v. Stanley* (1995) 10 Cal.4th 764, 793 [appellate courts may treat as waived any point that is asserted without legal argument and citation to authority]).

There is no written ruling from the trial court and no transcript of the oral proceedings. Nor, apparently, did Speaker request a statement of decision, which section 1710.40, subdivision (c), expressly provides for on a motion to vacate a judgment entered on a sister state judgment by its reference to sections 632 and 634. Left with no basis for evaluating the trial court's reasoning, we apply the doctrine of implied findings against Speaker to support the order. (*Michael U. v. Jamie B.* (1985) 39 Cal.3d 787, 792-793 [failure to request statement of decision results in all intendments favoring the judgment or order below and the reviewing court's assumption that the trial court made all necessary factual findings to sustain its ruling], superseded on other grounds by statute as stated in *In re Zacharia D.* (1993) 6 Cal.4th 435, 448; see also *In re Marriage of Arceneaux* (1990) 51 Cal.3d 1130, 1133-1138.) Accordingly, we presume the trial court found that each of Speaker's arguments lacked merit.

Nor has Speaker provided any authority to show that the trial court erred in rejecting her arguments. Specifically, Speaker has cited no Montana law to support any of her contentions. Notwithstanding that the promissory notes Speaker signed contain her agreement to submit to the jurisdiction of

the courts in Ravalli County, Montana, and her agreement that Montana law would apply to any dispute, Speaker cites no Montana law to support her contention that she was not subject to its jurisdiction or that the Montana court erred in concluding she was liable under the terms of the promissory notes she signed. Instead, she relies solely on this court's opinion in *Sacramento Suncreek Apartments, LLC v. Cambridge Advantaged Properties, II, L.P.* (2010) 187 Cal.App.4th 1. In *Sacramento Suncreek Apartments*, we held that "specific jurisdiction over a nonresident defendant requires both minimum contacts and the assertion of a claim that arose from those contacts" (*id.* at p. 21) and found that the claim in that case did *not* arise from the out-of-state defendants' contacts: defendants were investors in an apartment complex, and plaintiffs' claims arose from the complex's operations and management, not from defendants' investment-related activities (*id.* at pp. 21-22). Those are not the facts here: Speaker's contacts with Montana arose from her signature on a promissory note from a Montana bank for the purposes of providing funds to Montana residents to operate a Montana business, and the bank's claim against Speaker arose from the borrowers' failure to repay the loan according to the terms of a promissory note Speaker signed.

As Speaker has failed to demonstrate the trial court abused its discretion, we shall affirm the trial court's order.

DISPOSITION

The order denying Speaker's motion to vacate the judgment against her is affirmed. The bank shall recover its costs on appeal. (Cal. Rules of Court, rule 8.278 (a)(1), (2).)

_____ ROBIE _____, Acting P. J.

We concur:

_____ MAURO _____, J.

_____ HOCH _____, J.