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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

KRIKOR TAHMIZIAN,

Plaintiff and Appellant,

v.

BRRVS CORPORATION et al.,

Defendants and Respondents.

G045939

(Super. Ct. No. 30-2010-00381491)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Geoffrey T. Glass, Judge. Affirmed.

Evgeny Swarovski for Plaintiff and Appellant.

Jeff Berke for Defendants and Respondents.

\* \* \*

Plaintiff and appellant Krikor Tahmizian appeals from a judgment entered after trial and in favor of respondents. He contends his boat was sold at a lien sale without notice to him. The boat was sold in compliance with the Boater's Lien Law. (Harb. & Nav. Code, §§ 500-509; all statutory references are to this code.) If Tahmizian did not receive notice of the sale, it was likely because he never registered the boat in California despite its presence in this state for more than three years prior to it being sold.

The record on appeal is sparse, to say the least. It does not contain Tahmizian's complaint or an answer thereto. Neither does it contain a reporter's transcript of the trial or a settled statement of facts. It does contain the judgment. Many "facts" alleged by Tahmizian are cited without reference to what limited record exists, and we did not find them in the record. We therefore do not consider them. (Cal. Rules of Court, rule 8.204(a)(1)(C), (a)(2)(C).) We affirm.

## I

### FACTS

The following facts are taken from the superior court's minute order following the trial in this matter and made part of the judgment, the only source of any facts contained in the record on appeal. Tahmizian sued for conversion. The property involved was a boat and a trailer. Tahmizian registered the boat and trailer in Arizona. He continued registering the boat and trailer in Arizona even after he moved them to California. He moved the boat to California because it was thought to be too big to keep at Lake Havasu and better suited for ocean excursions. Tahmizian did not register the boat or trailer in California.

When the boat was moved to California, Tahmizian's son stored it at a friend's house. It started as a gratuitous bailment, but when the friend was sent to prison, the son agreed to pay the friend for storage. A few months later, the friend's girlfriend, Raquel Becerra, moved the boat to defendant BRRVS Corporation's storage yard. Becerra stopped paying for the storage after a year. The storage yard placed a lien on the

boat and sold it through a third party lien administration company. Defendant Scott Ramser, Jr., the owner of the storage yard, purchased the boat at the lien sale auction and then sold the boat to Darrell Gibson.

Before the sale, the third party lien administrator notified the Department of Motor Vehicles (the DMV) of the intended sale. The DMV notified Arizona authorities. The DMV had no record of Tahmizian's interest in the boat because he never registered the boat in California.

## II

### DISCUSSION

The Boater's Lien Law is contained in Harbors and Navigation Code sections 500 through 509. (§ 500.) The Boater's Lien Law protects the interests of the owners of a boat "by providing for notice, establishing a method for contesting the sale, setting commercially reasonable standards for the sale, and providing for an appraisal process." (*Mariners Bay Co. v. Department of Motor Vehicles* (1991) 229 Cal.App.3d 808, 815.)

Generally, without regard to an exception not applicable here, "every person has a lien dependent upon possession of the vessel for the compensation to which he or she is legally entitled for services rendered to or storage of any vessel subject to registration with the Department of Motor Vehicles." (§ 502, subd. (a).) A lien holder may not conduct a lien sale without authorization from the DMV. (§ 503, subd. (a); see also § 501, subd. (a).) The application for authority to conduct a lien sale pursuant to the Boater's Lien Law must contain a declaration under penalty of perjury and include the

information set forth in subdivision (a) of section 503.<sup>1</sup> Once the DMV has received the application, it must “[n]otify the vessel registry agency of a foreign state of the pending lien sale, if the vessel bears the indicia of registration in that state” (§ 503, subd. (b)(1)) and mail a copy of the application “to the registered and legal owners at their *addresses of record with the [DMV] . . .*” (§ 503, subd. (b)(2), italics added.) Twenty days prior to the lien sale, the lienholder must send notice of the impending sale by mail, with return receipt requested to “[t]he registered and legal owners of the vessel, *if registered in this state.*” (§ 503, subd. (f)(2)(A), italics added.)

Tahmizian contends the lien sale was improper because the lien arises only when written notice is sent to the registered owner of the boat stating the boat is subject to sale under the Boater’s Lien Law. (§ 502, subd. (a).) He argues neither he nor the Bank of America — presumably the legal owner of the boat — was provided the requisite notice. “To the extent that this presents a question of fact, we apply the deferential substantial evidence standard of review. [Citation.] ‘If the trial court resolved disputed factual issues, the reviewing court should not substitute its judgment for the trial court’s express or implied findings supported by substantial evidence. [Citations.]’

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<sup>1</sup> “A lienholder shall apply to the department for the issuance of an authorization to conduct a lien sale pursuant to the provisions of this section for any vessel with a value determined to be over one thousand five hundred dollars (\$1,500). A fee shall be charged by the department and may be recovered by the lienholder if a lien sale is conducted or if the vessel is redeemed. The application shall be executed under penalty of perjury and shall include all of the following information:

“(1) A description of the vessel, including make, hull identification number, and state of registration, to the extent available.

“(2) The names and addresses of the registered and legal owners of the vessel, if ascertainable from the registration certificate within the vessel, and the name and address of any person whom the lienholder knows or reasonably should know claims a proprietary interest in the vessel.

“(3) A statement of the amount of the lien and the facts which give rise to the lien. The statement shall include, as a separate item, an estimate of any additional storage costs accruing pending the lien sale.” (§ 503, subd. (a).)

[Citation.] “[W]e must consider the evidence in the light most favorable to the prevailing party, giving such party the benefit of every reasonable inference, and resolving all conflicts in support of the judgment. [Citation.]” [Citation.]’ [Citation.] To the extent, however, that the trial court’s finding presents a question of law, we review it independently. [Citation.]” (*Chino Commercial Bank, N.A. v. Peters* (2010) 190 Cal.App.4th 1163, 1169-1170.)

There are a number of flaws in Tahmizian’s position. First, as to lack of notice to Bank of America: There is nothing in the record to suggest the Bank of America had an interest in the boat. Second, section 502 applies to liens on vessels “subject to registration with the Department of Motor Vehicles.” (§ 502, subd. (a).) The boat was sold in compliance with the Boater’s Lien Law and Tahmizian does not contend the boat was not subject to registration with the DMV, or that he registered the boat in California.

Third, the evidence does not establish the lienholder knew Tahmizian owned the boat or had any interest in it. The court did not credit the testimony of the one witness who testified she showed someone at the storage facility the Arizona registration for the boat and which contained Tahmizian’s name and address. “[I]t is the exclusive province of the [fact finder at trial] to determine the credibility of a witness and the truth or falsity of the facts upon which a determination depends. [Citations.]” [Citation.]” (*People v. Lewis* (2001) 26 Cal.4th 334, 361.) And finally, although Tahmizian contends his name and address “were ascertainable from the registration certificate within the vessel,” the record on appeal contains no evidence the registration certificate was inside the boat.

The court found the lienholder complied with the Boater’s Lien Law. “[E]very intendment and presumption not contradicted by or inconsistent with the record on appeal must be indulged in favor of the orders and judgments of superior courts.”” (*Keener v. Jeld-Wen, Inc.* (2009) 46 Cal.4th 247, 261, fn. omitted, quoting

*Walling v. Kimball* (1941) 17 Cal.2d 364, 373.) The record on appeal does not contain any facts inconsistent with the court's findings.

The DMV was notified of the lien and the intended sale to satisfy the lien. Tahmizian did not register the boat in California, so the department did not have his contact information. The sale was conducted in compliance with the Boater's Lien Law. Accordingly, we affirm.

III  
DISPOSITION

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

MOORE, ACTING P. J.

WE CONCUR:

ARONSON, J.

IKOLA, J.