

CALIFORNIA COURT OF APPEAL, FIRST APPELLATE DISTRICT, DIVISION
FOUR

2023-a164867 (1)

No. A164867, California Court of Appeal, First Appellate District, Division Four

SUMMARY

****Key Legal Topics & Holdings:**** Anti-SLAPP motion; malicious prosecution; probable cause standard; easement vs. license; contract interpretation ambiguity; forged document effect on probable cause. ****Holding:**** The California Court of Appeal reversed the denial of anti-SLAPP motions in a malicious prosecution action, finding that the underlying lawsuit—which sought to extinguish a driveway easement based on a recorded Declaration of Restrictions—was not totally and completely without merit. The court held that a genuine ambiguity between two mutually executed documents (the Rider and the Declaration of Restrictions) provided a minimally sufficient factual basis for the breach of contract claim, satisfying the low probable cause standard under **Sheldon Appel**. The use of a potentially forged addendum did not undermine probable cause because it was not essential to the pleaded claims.

CASE DETAILS

COURT	California Court of Appeal, First Appellate District, Division Four
WRITING FOR THE COURT	STREETER, J.; BROWN, P. J.; HIRAMOTO, J.
JURISDICTION	California
DOCKET	A164867
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from order denying anti-SLAPP motions to strike malicious prosecution complaint.
STANDARD OF REVIEW	De novo review of anti-SLAPP motion; probable cause element is a legal question reviewed de novo.
PRECEDENTIAL VALUE	published
PARTIES	Tara Crawford, Benjamin Graves v. Green Tree Headlands LLC, Steven McArthur

TOPICS

- civil procedure
- appellate procedure
- standard of review
- real estate
- covenants and restrictions
- torts

PRACTICE AREAS

Civil Litigation

Real Estate

Appellate Practice

QUESTIONS PRESENTED

1. Whether the trial court erred in denying the anti-SLAPP motions because McArthur failed to show a probability of prevailing on the malicious prosecution claim, specifically on the element of probable cause for the underlying action.

HOLDINGS

1. McArthur failed to show lack of probable cause because the conflict between the Rider (providing the easement would remain) and the Declaration of Restrictions (providing it would expire) created an ambiguity, and Crawford had an arguable legal basis to seek judicial resolution. The breach of contract claim and Civil Code section 3306a demand were not so lacking in merit as to be without probable cause.

KEY QUOTATIONS

“We review the trial court's rulings on an anti-SLAPP motion de novo, conducting an independent review of the entire record.” (at 15-16)

“A claim is unsupported by probable cause if any reasonable attorney would agree that it is totally and completely without merit.” (at 16)

“We need not and do not make any determination that that is the correct interpretation of the written instruments governing this transaction, taken collectively.” (at 22)

“The distinction between easements and licenses is often not obvious.” (at 20)

“Litigants should always be mindful that, under the Bertero-Crowley rule, a partially well-founded lawsuit will not ward off malicious prosecution exposure if they bring a case that overreaches even in part.” (at 26)

FACTUAL BACKGROUND

Crawford, as trustee of Patterson's estate, owned Lot 4 adjacent to McArthur's Lot 3. A 15-foot driveway easement across Lot 4 provided access to Lot 3. The Purchase Agreement for Lot 3 included a Rider stating the easement would remain in existence, but a later-recorded Declaration of Restrictions stated the easement would expire 24 months after Patterson vacated. Crawford sued McArthur for breach of contract, declaratory relief, and quiet title, alleging the easement had expired. During litigation, a June 21 Addendum surfaced that appeared to be a forgery. Crawford dismissed the action after McArthur filed sanctions motions. McArthur then sued Crawford and Graves for malicious prosecution.

PROCEDURAL HISTORY

McArthur sued Crawford and Graves for malicious prosecution after Crawford voluntarily dismissed her underlying action (breach of contract, declaratory relief, quiet title) following sanctions motions and discovery disputes. Crawford and Graves filed anti-SLAPP motions, which the trial court denied. They appealed.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The trial court is directed to enter a new and different order granting the motion.

CASES CITED

- Sheldon Appel Co. v. Albert & Oliker (1989) 47 Cal.3d 863
- Roche v. Hyde (2020) 51 Cal.App.5th 757
- Jarrow Formulas, Inc. v. LaMarche (2003) 31 Cal.4th 728
- Roberts v. Sentry Life Insurance (1999) 76 Cal.App.4th 375
- Bertero v. National General Corp. (1974) 13 Cal.3d 43
- Crowley v. Katleman (1994) 8 Cal.4th 666
- Wilson v. Parker, Covert & Chidester (2002) 28 Cal.4th 811
- Soukup v. Law Offices of Herbert Hafif (2006) 39 Cal.4th 260
- Sierra Club Foundation v. Graham (1999) 72 Cal.App.4th 1135
- Leonardini v. Shell Oil Co. (1989) 216 Cal.App.3d 547
- Ram's Gate Winery, LLC v. Roche (2015) 235 Cal.App.4th 1071
- Winet v. Price (1992) 4 Cal.App.4th 1159
- Golden West Baseball Co. v. City of Anaheim (1994) 25 Cal.App.4th 11
- Gamerberg v. 3000 E. 11th St., LLC (2020) 44 Cal.App.5th 424
- Pinnacle Museum Tower Assn. v. Pinnacle Market Development (US), LLC (2012) 55 Cal.4th 223
- In re Marriage of Flaherty (1982) 31 Cal.3d 637