

APPELLATE DIVISION OF THE SUPERIOR COURT, STATE OF
CALIFORNIA, COUNTY OF LOS ANGELES

Alonso v. Herrera

Alonso · No. 24APLC00422 · Decided December 17, 2025

SUMMARY

The appellate court reversed a summary judgment awarding a landlord possession in an unlawful detainer action based on the allegedly illegal status of a garage dwelling. It held that the landlord could not obtain summary judgment on a theory contradicting the nonpayment-of-rent theory pleaded in the complaint without amending the complaint. The court further held that the landlord’s violation of municipal requirements was an affirmative defense available to the tenant, not a basis for the landlord to obtain possession.

CASE DETAILS

COURT	Appellate Division of the Superior Court, State of California, County of Los Angeles
WRITING FOR THE COURT	P. McKay, P. J.; Ricciardulli, J.; Hobbs, J.
JURISDICTION	California, Appellate Division of the Superior Court, County of Los Angeles
DECIDED	December 17, 2025
DOCKET	24APLC00422
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendant appealed from a summary judgment awarding plaintiff possession in an unlawful detainer action. The appellate court reversed.
STANDARD OF REVIEW	The appellate court independently reviews an order granting summary judgment.
PRECEDENTIAL VALUE	Published and certified for publication
PARTIES	Carmen Herrera v. Guadalupe Alonso

TOPICS

- summary judgment
- landlord tenant
- affirmative defenses
- mootness
- appellate procedure

PRACTICE AREAS

civil procedure

landlord-tenant law

real estate

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether a landlord may obtain summary judgment in an unlawful detainer action on a theory that was not alleged in the complaint and contradicts the complaint's nonpayment-of-rent theory without first amending the complaint.
2. Whether a landlord may prevail in an unlawful detainer action by relying on the illegal status of the rental unit when the landlord's noncompliance with a tenant-protection ordinance constitutes an affirmative defense available to the tenant.
3. Whether the appeal was moot because the tenant had vacated the premises and the writ of execution had been returned as satisfied.

HOLDINGS

1. A plaintiff may not obtain summary judgment on a theory of entitlement to possession that was not encompassed in the complaint and contradicts the basis alleged in the complaint unless the plaintiff seeks leave to amend at or before the summary judgment hearing.
2. A landlord may not use the landlord's violation of a tenant-protection ordinance or the illegal status of the rental unit as a basis to obtain possession in an unlawful detainer action when that violation operates as an affirmative defense available to the tenant.
3. The appeal was not moot because reversal could provide effective relief, including potential restitutionary relief and removal of the adverse consequences of the unlawful detainer judgment.

KEY QUOTATIONS

"We hold that absent an amendment to the complaint, summary judgment was not available to plaintiff on a ground that contradicted the basis alleged in the complaint, and that plaintiff's non-compliance with city ordinance—an affirmative defense—was not a valid basis to award judgment in favor of plaintiff." (1)

"A lessor's violation of a tenant protection ordinance does not provide a basis for the lessor to prevail in an unlawful detainer action." (6)

"Settled maxims of jurisprudence prevented plaintiff from using her violation of the Maywood Municipal Code as a sword to prevail in this unlawful detainer action." (8)

FACTUAL BACKGROUND

Alonso rented Herrera a garage in Maywood that was being used as a dwelling unit without a permit or certificate of occupancy. Alonso's unlawful detainer complaint and three-day notice alleged nonpayment of rent, but her summary judgment motion argued that the lease was void because the unit was illegal and that she was therefore entitled to possession without recovering rent. The trial court granted summary judgment without allowing Herrera a meaningful opportunity to oppose the changed theory, and the writ of execution was later returned as wholly satisfied.

PROCEDURAL HISTORY

Alonso filed an unlawful detainer complaint alleging that Herrera failed to pay rent after service of a three-day notice to pay rent or quit. The trial court granted Alonso summary judgment on a different theory—that the lease was void because the garage lacked a certificate of occupancy—and awarded possession. Herrera's motions for reconsideration, new trial, and to set aside the judgment were denied. The appellate court reversed and awarded Herrera costs on appeal.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The judgment is reversed. The opinion does not impose additional express instructions, but leaves any restitutionary or possession-related relief following reversal to the trial court's discretion.

CASES CITED

- Gruzen v. Henry (1978) 84 Cal.App.3d 515
- North 7th Street Associates v. Constante (2016) 7 Cal.App.5th Supp. 1
- Hooks v. Southern Cal. Permanente Medical Group (1980) 107 Cal.App.3d 435, 441-442
- Sierra Craft, Inc. v. Magnum Enterprises, Inc. (1998) 64 Cal.App.4th 1252, 1256
- Borden v. Stiles (2023) 92 Cal.App.5th 337, 344-345
- Daneshmand v. City of San Juan Capistrano (2021) 60 Cal.App.5th 923, 930
- Naranjo v. Doctors Medical Center of Modesto, Inc. (2025) 111 Cal.App.5th 408, 434
- FPI Development, Inc. v. Nakashima (1991) 231 Cal.App.3d 367, 381
- Laabs v. City of Victorville (2008) 163 Cal.App.4th 1242, 1257 & fn. 6
- Kruger v. Reyes (2014) 232 Cal.App.4th Supp. 10, 16
- Eshagian v. Cepeda (2025) 112 Cal.App.5th 433, 457-459
- Lee v. Kotyluk (2021) 59 Cal.App.5th 719, 731
- Hearn v. Howard (2009) 177 Cal.App.4th 1193, 1200-1201
- Hernandez v. City of Pomona (2009) 46 Cal.4th 501, 506, fn. 1
- Fireman's Fund Ins. Co. v. Sparks Construction, Inc. (2004) 114 Cal.App.4th 1135, 1149
- Appel v. Beyer (1974) 39 Cal.App.3d Supp. 7, 19
- MartinBragg v Moore 219 CalApp4th 367 161 CalRptr3d 471 Cal App 2013, Martin-Bragg v. Moore (2013) 219 Cal.App.4th 367, 385
- Santa Clara County Local Transportation Authority v. Guardino (1995) 11 Cal.4th 220, 232, fn. 6
- Bawa v. Terhune (2019) 33 Cal.App.5th Supp. 1, 5
- Lincoln Place Tenants Assn. v. City of Los Angeles (2007) 155 Cal.App.4th 425, 452
- Yanez v. Vasquez (2021) 65 Cal.App.5th Supp. 1, 12

- Tri-Q, Inc. v. Sta-Hi Corp. (1965) 63 Cal.2d 199, 218, 221
- Espinoza v. Calva (2008) 169 Cal.App.4th 1393, 1400
- Reynolds v. Roll (1954) 122 Cal.App.2d 826, 835-836
- Saltonstall v. City of Sacramento (2014) 231 Cal.App.4th 837, 848-849
- Shapell Social Rental Properties, LLC v. Chico's FAS, Inc. (2022) 85 Cal.App.5th 198, 209-212
- Becerra v. McClatchy Co. (2021) 69 Cal.App.5th 913, 927, fn. 4
- Beach Break Equities, LLC v. Lowell (2016) 6 Cal.App.5th 847, 852-853
- Gunderson v. Wall (2011) 196 Cal.App.4th 1060, 1065
- Old National Financial Services, Inc. v. Seibert (1987) 194 Cal.App.3d 460, 468
- Munoz v. MacMillan (2011) 195 Cal.App.4th 648, 658, 660 fn. 8

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