

CALIFORNIA COURT OF APPEAL, FIRST APPELLATE DISTRICT, DIVISION
THREE

Wang v. Peletta

No. A169968 (Cal. Ct. App. June 27, 2025) · No. A169968 · Decided June 27, 2025

SUMMARY

The California Court of Appeal affirmed judgment against property owners who constructed an unpermitted retaining wall that encroached on a neighboring parcel. The court held that the owners could not establish a prescriptive easement to maintain improvements constituting an abatable public nuisance and upheld denial of an equitable easement. The opinion also addresses evidentiary rulings concerning alleged defamatory statements, in an unpublished portion.

CASE DETAILS

COURT	California Court of Appeal, First Appellate District, Division Three
WRITING FOR THE COURT	Tucher, P. J.; Petrou, J.; Rodríguez, J.
JURISDICTION	California Court of Appeal, First Appellate District, Division Three
DECIDED	June 27, 2025
DOCKET	A169968
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from a judgment entered after a bench trial that rejected their claims for prescriptive and equitable easements, quieted title against those claims, ordered removal of encroachments, and restored the hillside. The appeal also challenged evidentiary rulings excluding evidence concerning the alleged prescriptive easement and allegedly defamatory communications.
STANDARD OF REVIEW	A motion in limine that effectively operates as a motion for nonsuit is reviewed under the nonsuit standard: all inferences and evidentiary conflicts are resolved in favor of the losing party, and the ruling is upheld only if required as a matter of law. Equitable-easement factual findings are reviewed for substantial evidence, while the decision whether to grant an equitable easement, including whether conduct was sufficiently willful or negligent to defeat relief, is reviewed for abuse of discretion. The applicability of Civil Code section 47's privilege to undisputed facts is reviewed independently.

PRECEDENTIAL VALUE	Published in part; part III of the Discussion is unpublished
PARTIES	Francis Wang, individually and as trustee, et al., Laura Young v. Peter Peletta, individually and as trustee

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QUESTIONS PRESENTED

1. Whether the trial court properly used a motion in limine to exclude evidence supporting plaintiffs' prescriptive-easement theory.
2. Whether plaintiffs could acquire a prescriptive easement to maintain unpermitted improvements that constituted a public nuisance subject to abatement.
3. Whether the evidence compelled granting an equitable easement despite the trial court's finding that the encroachment was not innocent.
4. Whether communications to County officials and a neighbor concerning the code violations were protected by Civil Code section 47's official-proceeding privilege.
5. Whether statements describing plaintiffs as a disgrace to their profession and criticizing their association with UC Berkeley were actionable defamation or nonactionable opinion.

HOLDINGS

1. A motion in limine may be used to dispose of a cause of action or theory of recovery when the court exercises its inherent power to control litigation and conserve judicial resources, although the ruling remains subject to the applicable appellate standard of review.
2. Plaintiffs could not acquire a prescriptive easement to maintain the unpermitted retaining wall and related improvements because they constituted a public nuisance subject to abatement, and no prescriptive right may be acquired to maintain a public nuisance.
3. The trial court acted within its discretion in denying an equitable easement because substantial evidence supported its finding that plaintiffs' encroachment was not innocent.
4. The communications concerning the County's investigation and code-violation proceedings were protected by the absolute official-proceeding privilege of Civil Code section 47, including the republication to a neighbor substantially connected with those proceedings.
5. The statements that plaintiffs were a disgrace to their profession and that UC Berkeley and other institutions should not associate with them were nonactionable opinions rather than defamatory provable assertions of fact.

KEY QUOTATIONS

“Courts in this state have long held that there can be no prescriptive right to maintain a public nuisance.” (9)

“Maintaining the status quo is not an option.” (12)

“The court may not grant the easement unless all three of these prerequisites are established.” (15)

“A statement made in an official proceeding is not privileged unless it has “ ‘some reasonable relevancy to the subject matter of the action,’ ” and it is unprivileged if it is “ ‘extraneous to the action.’ ”” (22)

FACTUAL BACKGROUND

Francis Wang and Laura Young constructed a roughly 295-foot retaining wall and related improvements in Napa County in the late 1990s without obtaining permits or a preconstruction survey. They believed a barbed-wire fence marked the boundary, but a 2018 survey obtained by adjoining-property owner Peter Peletta showed that approximately 270 feet of the wall encroached on his property. The County cited the property for unpermitted construction and code violations, requiring either retroactive permitting and corrective work or removal of the improvements and restoration of the hillside. The wall was stable but did not comply with current requirements for seismic stability, drainage, and erosion control.

PROCEDURAL HISTORY

Plaintiffs asserted quiet-title, declaratory-relief, easement, and defamation claims concerning a retaining wall that encroached on Peletta's property. The trial court granted Peletta's motion in limine barring evidence of prescriptive use, conducted a bench trial on the equitable-easement claim, denied that claim, and later entered judgment quieting title against plaintiffs' easement claims and ordering removal of the encroachments and restoration of the hillside. The court excluded most challenged defamation evidence as privileged and the remainder as nonactionable opinion; the remaining claims were resolved by dismissal or stipulated directed verdict. The Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- *Leonardini v. Shell Oil Co.* (1989) 216 Cal.App.3d 547, 584
- *Johnson v. Chiu* (2011) 199 Cal.App.4th 775, 780-781
- *Amtower v. Photon Dynamics, Inc.* (2008) 158 Cal.App.4th 1582, 1594-1595
- *K.C. Multimedia, Inc. v. Bank of America Technology & Operations, Inc.* (2009) 171 Cal.App.4th 939, 951
- *Mechanical Contractors Assn. v. Greater Bay Area Assn.* (1998) 66 Cal.App.4th 672, 677
- *Tan v. Arnel Management Co.* (2009) 170 Cal.App.4th 1087, 1094-1095
- *Edwards v. Centex Real Estate Corp.* (1997) 53 Cal.App.4th 15, 28
- *Main Street Plaza v. Cartwright & Main, LLC* (2011) 194 Cal.App.4th 1044, 1054
- *People ex rel. Dept. of Transportation v. Outdoor Media Group* (1993) 13 Cal.App.4th 1067, 1076

- Beck Development Co. v. Southern Pacific Transportation Co. (1996) 44 Cal.App.4th 1160, 1206
- Strong v. Sullivan (1919) 180 Cal. 331, 334
- Bowen v. Wendt (1894) 103 Cal. 236, 238
- Zack's, Inc. v. City of Sausalito (2008) 165 Cal.App.4th 1163, 1183
- Mangini v. Aerojet-General Corp. (1991) 230 Cal.App.3d 1125, 1131, 1142-1147
- Kafka v. Bozio (1923) 191 Cal. 746, 751-752
- Phillips v. City of Pasadena (1945) 27 Cal.2d 104, 107-108
- Baker v. Burbank-Glendale-Pasadena Airport Authority (1985) 39 Cal.3d 862, 869-870
- Gehr v. Baker Hughes Oil Field Operations, Inc. (2008) 165 Cal.App.4th 660, 668
- Wade v. Campbell (1962) 200 Cal.App.2d 54, 59
- Hudson v. Dailey (1909) 156 Cal. 617, 629-631
- Institoris v. City of Los Angeles (1989) 210 Cal.App.3d 10, 18, 21-23
- Baker v. Burbank-Glendale-Pasadena Airport Authority (1990) 220 Cal.App.3d 1602, 1605, 1610
- Shoen v. Zacarias (2015) 237 Cal.App.4th 16, 19-20
- Hansen v. Sandridge Partners, L.P. (2018) 22 Cal.App.5th 1020, 1028-1030
- Nellie Gail Ranch Owners Assn. v. McMullin (2016) 4 Cal.App.5th 982, 1004
- Linthicum v. Butterfield (2009) 175 Cal.App.4th 259, 265-266
- Hirshfield v. Schwartz (2001) 91 Cal.App.4th 749, 755, 759, 765-772
- Dziubla v. Piazza (2020) 59 Cal.App.5th 140, 146, 155-157
- Nguyen v. Proton Technology Corp. (1999) 69 Cal.App.4th 140, 143-152
- Silberg v. Anderson (1990) 50 Cal.3d 205, 219-220
- Ascherman v. Natanson (1972) 23 Cal.App.3d 861, 864-865
- Rothman v. Jackson (1996) 49 Cal.App.4th 1134, 1139-1140, 1146
- Abuemeira v. Stephens (2016) 246 Cal.App.4th 1291, 1299
- GetFugu, Inc. v. Patton Boggs LLP (2013) 220 Cal.App.4th 141, 153
- Argentieri v. Zuckerberg (2017) 8 Cal.App.5th 768, 784
- Susan A. v. County of Sonoma (1991) 2 Cal.App.4th 88, 94
- Bently Reserve LP v. Papaliolios (2013) 218 Cal.App.4th 418, 426
- Summit Bank v. Rogers (2012) 206 Cal.App.4th 669, 696