

**CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION SEVEN**

Gamerberg v. 3000 E. 11th Street, LLC

44 Cal. App. 5th 424 (2020) · No. B290755 · Decided January 21, 2020

SUMMARY

The California Court of Appeal reversed a judgment recognizing an unrecorded parking affidavit as an irrevocable license binding on a subsequent purchaser. The court held that an irrevocable license is not enforceable against a subsequent purchaser who acquired the property without actual or constructive notice, particularly where the interest was neither visible nor recorded. The case was remanded for further proceedings.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Seven
WRITING FOR THE COURT	Perluss, P. J.; Zelon, J.; Segal, J.
JURISDICTION	California
DECIDED	January 21, 2020
DOCKET	B290755
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	3000 E. 11th St., LLC appealed a superior court judgment entered after a bench trial that upheld an unrecorded parking affidavit as an irrevocable license in favor of Ruben Gamerberg.
STANDARD OF REVIEW	The grant of an irrevocable license is reviewed for abuse of discretion, resolving evidentiary conflicts in favor of the judgment and determining whether the ruling falls within the permissible range of options set by the governing legal criteria. The legal question whether the license bound a subsequent purchaser without notice was reviewed as a question of law.
PRECEDENTIAL VALUE	Published and certified for publication
PARTIES	3000 E. 11th St., LLC v. Ruben Gamerberg

TOPICS

real estate

easements

recording acts

remedies

appellate procedure

PRACTICE AREAS

real estate

property remedies

appellate procedure

QUESTIONS PRESENTED

1. Whether an irrevocable license created by expenditures made in reliance on a parking agreement is binding on a subsequent purchaser of the burdened property who took title without actual or constructive notice.
2. Whether an unrecorded parking affidavit filed only in governmental building-permit records provides constructive notice sufficient to bind a subsequent purchaser.
3. Whether the trial court properly upheld the parking affidavit as an irrevocable license against the LLC's successor.

HOLDINGS

1. An irrevocable license is not enforceable against a subsequent purchaser of the burdened property who takes without actual or constructive notice of the license.
2. A license may become irrevocable when the licensee, in reasonable reliance on the licensor's representations or the license terms, makes substantial expenditures of money or labor, but irrevocability does not eliminate the notice requirement applicable to subsequent purchasers.
3. The parking affidavit's filing in LADBS records did not provide the constructive notice that recorded documents of title provide and therefore did not bind the subsequent purchaser.

KEY QUOTATIONS

“An otherwise revocable license becomes irrevocable when the licensee, acting in reasonable reliance either on the licensor’s representations or on the terms of the license, makes substantial expenditures of money or labor in the execution of the license, and the license will continue ‘for so long a time as the nature of it calls for.’” (at 7-8)

“Easements, of course, are likewise unenforceable against a subsequent purchaser without notice (except in limited circumstances not applicable here).” (at 15-16)

“Accordingly, when an easement or other use is not visible and does not provide actual notice to the purchaser, it must be recorded to be enforceable.” (at 16)

FACTUAL BACKGROUND

In 1950, the owner of one Boyle Heights property signed a notarized parking affidavit agreeing to provide eight parking spaces for a neighboring warehouse, allowing the neighboring owner to obtain a building permit and certificate of occupancy. The affidavit was filed with the Los Angeles Department of Building and Safety but was never recorded, and there was no evidence that the spaces were identified or used by the neighboring owner or successors. In 1994, Soroudi and his father purchased the burdened property without actual or constructive notice of the affidavit and allocated its parking spaces to tenants until 2013. Gamerberg, who acquired the

neighboring property in 2007, learned of the affidavit in 2013, notified Soroudi after beginning an expansion, and relied on the purported parking rights while spending substantial sums on the project.

PROCEDURAL HISTORY

Gamerberg sued seeking declarations of an equitable servitude, equitable easement, and irrevocable license. He proceeded to trial only on the irrevocable-license claim. The Los Angeles County Superior Court ruled that an irrevocable license had been created in 1950 and was binding on the LLC's successor despite its lack of notice. The Court of Appeal reversed and remanded for entry of judgment in favor of the LLC.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The superior court was directed to enter judgment in favor of 3000 E. 11th St., LLC. The LLC was awarded its costs on appeal.

CASES CITED

- Richardson v. Franc, 233 Cal. App. 4th 744 (2015)
- Noronha v. Stewart, 199 Cal. App. 3d 485 (1988)
- Churchill v. Russell, 148 Cal. 1 (1905)
- Blankenship v. Whaley, 124 Cal. 300 (1899)
- Shoen v. Zacaria, 33 Cal. App. 5th 1112 (2019)
- Stoner v. Zucker, 148 Cal. 516 (1906)
- Cooke v. Ramponi, 38 Cal. 2d 282 (1952)
- Eastman v. Piper, 68 Cal. App. 554 (1924)
- Golden West Baseball Co. v. City of Anaheim, 25 Cal. App. 4th 11 (1994)
- Taormina Theosophical Community, Inc. v. Silver, 140 Cal. App. 3d 964 (1983)
- Mesmer v. Uharriet, 174 Cal. 110 (1916)
- Citizens for Covenant Compliance v. Anderson, 12 Cal. 4th 345 (1995)
- Pollard v. Rebman, 162 Cal. 633 (1912)
- Field-Escandon v. DeMann, 204 Cal. App. 3d 228 (1988)
- Martinez v. Public Employees' Retirement System, 33 Cal. App. 5th 1156 (2019)
- Gonzalez v. Lew, 20 Cal. App. 5th 155 (2018)
- Jessen v. Mentor Corp., 156 Cal. App. 4th 1480 (2008)
- Barnes v. Hussa, 136 Cal. App. 4th 1358 (2006)

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