Filed 9/28/26

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

WCST ENTERPRISES, LLC, Plaintiff and Appellant, v. BERIT LING, Defendant and Respondent.	G065236 (Super. Ct. No. 30-2019-01044486) O P I N I O N

Appeal from a postjudgment order of the Superior Court of Orange County, Andre De La Cruz, Judge. Affirmed.

Law Offices of Fred S. Pardes and Fred S. Pardes for Plaintiff and Appellant.

Schiffer and Eric M. Schiffer for Defendant and Respondent.

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The parties are neighbors that have been fighting over a parking space in their condominium complex (the complex) for nearly a decade. Plaintiff WCST Enterprises, LLC (WCST), which is owned by Maury Loomis, owns Unit 38 in the complex. Defendant Berit Ling owns Unit 39. WCST sued Ling to quiet title to the parking space, which is known as garage space <u>38G-a.</u>[1] Following a bench trial, the trial court entered judgment quieting title to the space in WCST's favor (the judgment). The judgment named WCST prevailing party in the action and specified that it could recover attorney fees "as determined by appropriate" motion.

WCST then moved for statutory attorney fees under Civil Code section 5975, subdivision (c),[2] and contractual attorney fees under the complex's declaration of covenants, conditions, and restrictions (the CC&R's). The court found WCST was not entitled to fees under either source because its quiet title action did not seek to enforce any rights under the CC&R's or any other of the complex's governing documents (the fee order).

WCST appeals the fee order. It claims that because the judgment named it the prevailing party, the lower court "had no discretion to deny [it] attorney fees." We publish this case to clarify that a generic statement in a judgment naming a party the "prevailing party" before an attorney fee motion has been filed does not automatically entitle that party to fees. The trial court retains discretion to deny fees where the "prevailing party" fails to show entitlement to any fees in a subsequent motion.

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[1] This case involves several garage spaces with similar number and letter designations. We underline all instances of the disputed garage space, <u>38G-a</u>, to improve readability.

[2] Undesignated statutory references are to the Civil Code.

Nor are we persuaded by any of WCST's other arguments. It has not shown that the gravamen of its quiet title action was to enforce any specific rights provided by the CC&R's or any other governing document. Rather, the record indicates WCST's quiet title action sought to enforce rights provided by its grant deed. As such, the fee postjudgment order is affirmed.

FACTS AND PROCEDURAL HISTORY

I.

BACKGROUND

This is the third appeal in this case. The first appeal was addressed in *WCST Enterprises, LLC v. Ling* (Feb. 23, 2023, G060377) [nonpub. opn.] (*WCST I*), and the second appeal in *WCST Enterprises, LLC v. Ling* (Mar. 19, 2026, G064506) [nonpub. opn.] (*WCST II*). The following facts are taken verbatim from *WCST II*, which heavily quoted portions of *WCST I*:[3]

The complex was developed by the Huntington Harbor Corporation (the Huntington Corporation) in the 1960s. In 1965, the Huntington Corporation recorded a plan for the complex (the Plan), a map of the complex (the Map), and the {CC&R's}. {Citation.}

The complex contains dozens of units and detached one-car and two-car garages that are each assigned to various units. WCST owns Unit 38, and Ling owns Unit 39. "Units 38 and 39 are adjoining two-story residences that along with several other units in the same building form a row of condominiums. Units 36 and 37 are in that same row of adjoining units and . . . share what looks to be a two-car garage. Units 36 and 37 are smaller than Units 38 and 39 and are allocated only one garage parking space each, which

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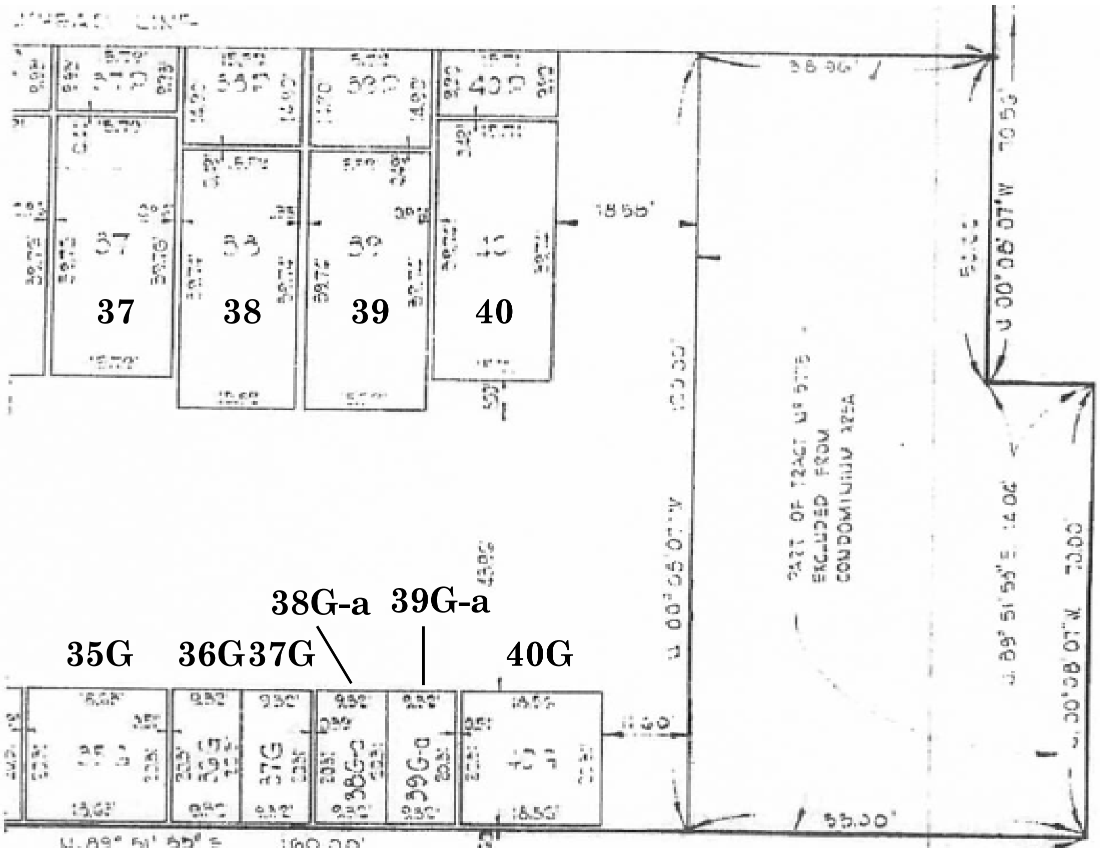
[3] The adopted portions of *WCST II* are presented without quotation marks. We have marked new or altered language with curly braces. (See, e.g., *Arriaga v. County of Alameda* (1995) 9 Cal.4th 1055, 1059.)

may explain why the garage they share is labeled on the Map with '36G' and '37G,' whereas the [two-car] garage next to it bears the labels '[38G-a]' and '39G-a.' In other words, Units 36 and 37 come with only one parking space each, thereby obviating the '-a' and '-b' subdesignations that may have been deemed necessary for units with two parking spaces in separate garages."[4] {Citation.}

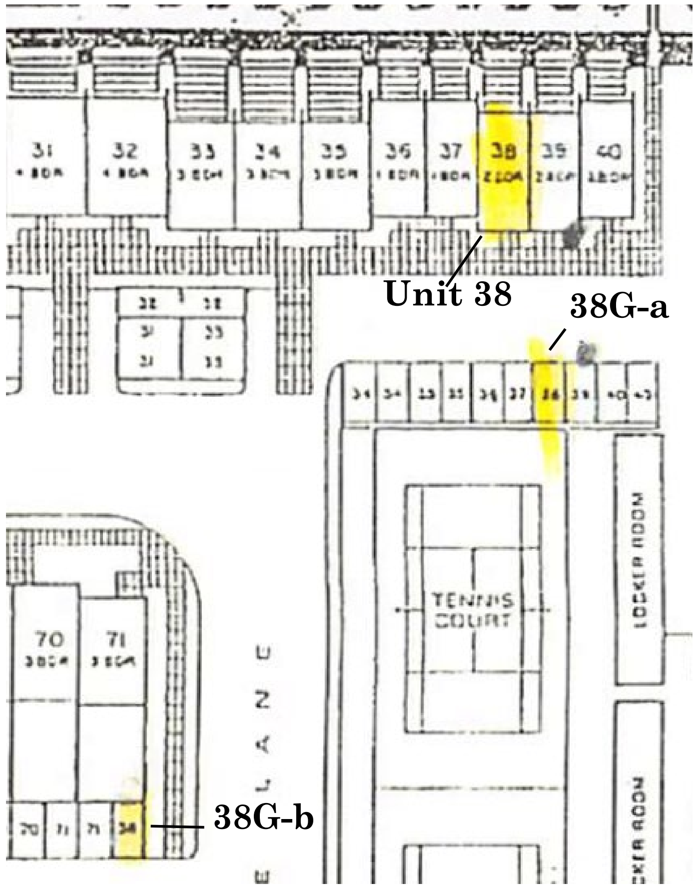
The image below from the Plan shows Units 37, 38, 39, and 40, which are across from garage spaces 35G, 36G, 37G, 38G-a, 39G-a, and 40G.[5] WCST and Ling dispute the ownership of garage space 38G-a, which is a single parking space in the two-car garage. The other space in the two-car garage is 39G-a, which is owned by Ling.

[4] The record refers to the relevant garage spaces using different lettered subdesignations. For example, portions of the record refer to the disputed garage space as "38G-a," "38G-A," or "38G(A)." For clarity, we will generally use the same lettered subdesignation throughout this opinion: a hyphen followed by a lowercase letter, e.g., 38G-a.

[5] We have added labels to this image for the reader's convenience.



“[I]n addition to [the two-car garage] labeled [above] as ‘[38G-a]’ and ‘39G-a’ (separated by the draftsman’s dividing line), there are two single-car garages in the complex that have [‘38G’] or [‘39G’] in their designations on the Map. One is labeled ‘38G-b’ and the other is labeled ‘39G-b.’ These two separate single-car garages are several hundred feet away from Units 38 and 39. [¶] [The two-car garage] is much closer. . . . [It] ‘is directly across from’ Units 38 and 39, and therefore ‘easily accessible . . . for parking cars, dropping off groceries, and would be the next best thing to having an attached garage.’” {Citation.} The image below shows the location of Unit 38 and garage spaces 38G-a and 38G-b.



Ling has owned Unit 39 since 1998. She started using both spaces in the two-car garage (spaces <u>38G-a</u> and 39G-a) after she purchased the unit. {Citation.} "Her grant deed identifies . . . the accompanying garage [for her unit] simply as '39G.'" {Citation.} However, "the original 'Corporation Grant Deed' that passed the Unit 39 property to its first owner conveyed an interest not in a garage identified as '39G,' but in 'Garages [39G-a] and [39G-b] as shown on the [P]lan.'" {Citation.}

"About 20 years after Ling purchased her unit, but before WCST came on the scene, the owners in her row of condominium units discovered discrepancies between the garages identified as theirs in their deeds and the ones they were actually using. WCST's predecessor in interest in Unit 38 was Robert Russell. . . . 'Apparently, Mr. Russell had access [to] and was using

Garage spaces [36G] and [37G]. The dispute over the Unit 38/39 garage arose when a neighbor while reviewing his grant deed discovered that he was improperly using his space instead of garage space [37G] as identified in his deed. This information was shared with another neighbor whose deed reflected [36G]. Mr. Russell voluntarily vacated [36G] and [37G], and started using single car garage space [38G-b] (which is identified in his deed), and [39G-b] (Ling's second single car garage space) neither of which are located near Unit 38.' Further, 'Russell['s] . . . grant deed . . . identifies Garage [38G-a and 38G-b]' as his." {Citation.}

"Ling acknowledged Russell spoke to her 'more than once' about his belief that garage space [38G-a] in [the two-car garage] belonged to him. Soon after his fruitless conversations with Ling, Russell sold Unit 38 to WCST." {Citation.} WCST is solely owned by Loomis, who formed the entity to purchase Unit 38 "'"as a primary residence for Loomis and his wife. . . . At the time Unit 38 was purchased, it was disclosed to WCST that Unit 39 had been in possession of [the entire] two-car garage located across the driveway from the Units."' {Citation.} "'WCST at the time of sale was fully aware that litigation to quiet title to the garage space [38G-a] might be required."' {Citation.}

After WCST purchased the property, "Ling and Loomis 'were unable to come to any agreement regarding a shared use of the [two-car] garage,' and, indeed, 'the relationship between the parties has been strained from day one.'" {Citation.} {¶} "WCST filed suit in January 2019. Its first amended complaint alleged causes of actions against Ling for (1) ejectment, (2) quiet title, (3) violation of the CC&R's, and (4) trespass {(the complaint)}." {Citation.}

{We end our quotation of *WCST II*.}

II.

THE FIRST TRIAL AND APPEAL

The first trial occurred in November 2020. The trial court ruled in favor of Ling. This division reversed, finding the court's statement of decision failed to explain how Ling had superior rights to garage space 38G-a over WCST. (*WCST II*, *supra*, G064506.)

The case was reassigned to a new judge for the second trial, who conducted a trial de novo "'on a blank slate.' The court also bifurcated the second trial to try the quiet title claim first. After this issue was tried, WCST would have the option to pursue its remaining claims." (*WCST II*, *supra*, G064506.)

"At trial, Ling presented evidence that she had exclusively used garage space 38G-a for 20 years and had improved the two-car garage in good-faith reliance on her belief that she had exclusive use of it. She also claimed WCST's quiet title claim was barred by the five-year statute of limitations in section 318, laches, and/or waiver through inaction." (*WCST II*, *supra*, G064506.)

The trial court ruled in WCST's favor. "It found the garages in the complex are property to be owned in fee rather than common areas. It then observed that Ling's grant deed conveyed her 'Garage 39G' but explained that '39G is incapable of being conveyed because 39G [does] not exist.' '[E]ither there was no conveyance of any garage space [to Ling] because 39G does not exist or the common sense result is that the preparer of the Ling grant deed [in] 1998 simply failed to identify that 39G was comprised of [39G-a] and [39G-b] as those two spots are associated with Unit 39 as set forth in exhibits 9, 10, 11 and 12.'

"In contrast, the trial court observed that WCST's grant deed 'clearly indicates, as should have been the case for [Ling] with respect to [her] grant deed of 1998, that the garage space, [38G-a and 38G-b] did come with Unit 38. Therefore, WCST is the legal and proper owner of garage [38G-a] and [38G-b].' [¶] . . . [¶]

"After receiving the above ruling, WCST agreed to waive its remaining claims and submitted a proposed judgment." (*WCST II*, *supra*, G064506.)

The trial court entered judgment quieting title in WCST's favor. (*Ibid*.) The judgment stated"[t]hat [WCST] is hereby deemed the prevailing party in this action." It also ordered "[t]hat [WCST] recover from [Ling], its attorney fees and costs of this action, as determined by appropriate Motion and Memorandum of Costs." We affirmed the judgment in *WCST II*, *supra*, G064506.

III.

ATTORNEY FEES

After entry of judgment, WCST moved for $292,544 in attorney fees (the fee motion) under (1) the Davis-Stirling Common Development Act (§ 5975, subd. (c)), and (2) an attorney fee provision in the CC&R's (§ 1717). WCST claimed attorney fees were warranted under either source because it had enforced its rights under the CC&R's. Ling opposed on grounds that the quiet title judgment was based on the parties' grant deeds and not enforcement of the CC&R's.

The trial court continued the initial hearing on the fee motion and requested supplemental briefing. It explained, "[t]he Court is not convinced that [WCST] is entitled to an award of attorneys' fees under either California Civil Code sections 5975 or 1717. Accordingly, the Court requires further briefing as to whether Plaintiff would be entitled to attorneys' fees under the language of the [CC&R's] (¶ 8) by virtue of simply referring to the [CC&R's] in the [complaint] . . . and seeking attorneys' fees in the prayer of the [complaint]."

WCST's supplemental brief asserted that "the gravamen of the lawsuit was to enforce its rights under the [CC&R's] and the [Plan], which gave WCST as Unit Owner 38, the exclusive right to use and possession [*sic*] to [garage space 38G-a]. [¶] When reviewing the Grant Deeds, the Court could not have rendered a Judgment in favor of WCST without an analysis of the [CC&R's] and [the] Plan. The Judgment to Quiet Title enforced the [CC&R's and the Plan] against Ling."

The trial court issued the fee order denying WCST's request for attorney fees because WCST had failed to cite "any portion of the [CC&R's] [it] was trying to enforce in proceeding with the Quiet Title cause of action. . . . [T]he Court mentioned only the Grant Deed [in its quiet title ruling]." The court also dismissed WCST's argument that the court had relied on the CC&R's and the Map in its quiet title ruling. It explained, "simply because an exhibit is entered into evidence [that] does not make the case about enforcing a document."

The trial court continued, "the question appears to become whether [WCST] would be entitled to attorneys' fees under the language of the [CC&R's] . . . by virtue of simply referring to the [CC&R's] in the [complaint] . . . and seeking attorneys' fees in the prayer of the [complaint])." The court concluded that WCST's supplemental brief had failed to answer this question.

WCST challenges the fee order on appeal, arguing the trial court erred by denying its request for attorney fees.[6]

DISCUSSION

I.

STANDARD OF REVIEW

"California follows the 'American rule,' under which each party to a lawsuit must pay its own attorney fees unless a contract or statute or other law authorizes a fee award." (*Eden Township Healthcare Dist. v. Eden Medical Center* (2013) 220 Cal.App.4th 418, 425.) We review attorney fee orders for an abuse of discretion. (*The Kennedy Com. v. City of Huntington Beach* (2023) 91 Cal.App.5th 436, 456.) "'Although this standard is deferential, a court abuses its discretion where no reasonable basis for the action is shown. . . . [W]e must review the entire record, paying particular attention to the trial court's stated reasons in denying or awarding attorney fees and whether it applied the proper standards of law in reaching its decision.' [Citations.] 'The trial judge is considered to be in the best position to determine whether the criteria have been met, and its determinations will not be disturbed "'unless the appellate court is convinced that it is clearly wrong.'"'" (*Id.* at pp. 456–457.)

Further, the trial court's ruling is presumed to be correct, and the appellant has the burden of showing error. (*Starcevic v. Pentech Financial Services, Inc.* (2021) 66 Cal.App.5th 365, 374.) To meet this burden, the

[6] We grant WCST's motion to augment the record with trial exhibits Nos. 8, 10, 13, 18, and 19. (Cal. Rules of Court, rule 8.155(a)(1) [appellate court has discretion to augment the record at any time].) We deny the augmentation motion as to the remaining documents because they are already included in the clerk's transcript.

appellant must frame the issues on appeal and show where the trial court erred by providing citations to the record and legal authority. (*Morgan v. Imperial Irrigation Dist.* (2014) 223 Cal.App.4th 892, 913.) Where the record is silent, all presumptions are made in support of the order. (*Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 956 (*Cahill*).)

II.

WCST'S OPENING BRIEF

Each appellate brief must "[s]tate each point under a separate heading or subheading summarizing the point . . . ." (Cal. Rules of Court, rule 8.204(a)(1)(B).) "Failure to provide proper headings forfeits issues that may be discussed in the brief but are not clearly identified by a heading." (*Pizarro v. Reynoso (*2017) 10 Cal.App.5th 172, 179.) This rule was designed to require appellants to systematically present their arguments to the appellate court so it can understand "the exact question under consideration, instead of being compelled to extricate it from the mass." (*Id*. at pp. 179–180.) "The strength and wisdom of this rule is that it nudges and cajoles the brief writer into focusing and specifying the precise reason [the appellate court] must reverse the trial court's action." (*Id*. at p. 180.) The rule also assists respondents in understanding the arguments to which they must respond. (*Ibid*.)

WCST's opening brief is not well organized. Its arguments are unfocused, repetitive, and meandering. This disorganized presentation makes WCST's arguments difficult to follow. "It is not our responsibility to act as counsel for [WCST] and attempt to arrange [its] arguments coherently." (*Pizarro v. Reynoso*, *supra*, 10 Cal.App.5th at p. 181.) As such, we will only consider the arguments that WCST identified in its headings. (*Id*. at pp. 179–180.) Any other arguments WCST sought to make are forfeited due to the lack of coherent organization in its opening brief. (*Id*. at p. 181.)

Nor will we consider any new arguments contained in WCST's reply brief. Allowing such arguments would be unfair to Ling because she was deprived of an opportunity to respond. (*Golden Door Properties, LLC v. County of San Diego* (2020) 50 Cal.App.5th 467, 559.) Further, WCST has not explained why it was unable to present any new arguments earlier. (*Neighbours v. Buzz Oates Enterprises* (1990) 217 Cal.App.3d 325, 335, fn. 8.)

III.

WCST'S ARGUMENTS

Based on the opening brief's headings, WCST makes five arguments. First, WCST asserts the fee order conflicts with the judgment, which named WCST as the prevailing party. Its second and third arguments appear to be duplicative. From what we can tell, both arguments assert that the trial court erred in concluding that WCST's quiet title action was not an action to enforce the governing documents under section 5975, subdivision (c). Fourth, WCST claims it was entitled to contractual attorney fees under the CC&R's. Fifth, if we find the trial court erred, WCST asks that we grant the amount of attorney fees it requested below instead of remanding the matter for determination.[7]

A. Conflict with the Judgment

We find no merit to WCST's contention that the fee order conflicts with the judgment.

WCST focuses on the portion of the judgment that named it the prevailing party and stated that it could "recover from [Ling], its attorney fees and costs of this action, as determined by appropriate Motion and Memorandum of Costs." WCST claims this portion of the judgment was

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[7] WCST also argues that it was the prevailing party in this action. This issue is uncontested.

"intended to eliminate any question at a subsequent [attorney fee] Motion, as to whether or not [WCST] was the prevailing party and entitled to recovery of [its] fees. The only remaining question that was to be determined at the anticipated future [attorney fee] Motion, was the actual amount of fees to be awarded." WCST argues the fee order conflicts with this part of the judgment by denying its attorney fee request.

We disagree. The trial court named WCST the prevailing party because it prevailed in the lawsuit. The term "prevailing party" is not a magic incantation that allows a party to bypass the well-established rule that each party must pay its own attorney fees unless a contract or statute authorizes recovery from its opponent. (*Mega RV Corp. v. HWH Corp.* (2014) 225 Cal.App.4th 1318, 1337.) Despite naming WCST the prevailing party, the court retained discretion to deny attorney fees if WCST failed to establish its entitlement to them in a subsequent motion. WCST did not make the required showing in the fee motion. Thus, it was not entitled to any attorney fees.

None of the cases WCST cites stand for the proposition that a prevailing party can obtain attorney fees without proving entitlement to them under statute or contract. *Salehi v. Surfside III Condominium Owners Assn.* (2011) 200 Cal.App.4th 1146, 1152, analyzed former section 1354, the predecessor to section 5975.[8] The court explained that former section 1354's use of "'[t]he words "shall be [awarded]" reflect[ed] a legislative intent that [the prevailing party] receive attorney fees *as a matter of right . . . whenever the statutory conditions have been satisfied*.'" (*Salehi*, at p. 1152, second

[8] Former section 1354 was renumbered as section 5975 in 2014. (*Artus v. Gramercy Towers Condominium Assn.* (2022) 76 Cal.App.5th 1043, 1050, fn. 2.)

italics added.) Thus, *Salehi* reinforces our holding here: a prevailing party must still prove its entitlement to statutory or contractual attorney fees.

WCST also cites a portion of *Rancho Mirage Country Club Homeowners Assn. v. Hazelbaker* (2016) 2 Cal.App.5th 252, 263, which states, "[o]nce the trial court determined the [plaintiff] to be the prevailing party in the action, it had no discretion to deny attorney fees." But the court made this statement after expressly holding that the case involved "an 'action to enforce the governing documents'" within "the meaning of section 5975." (*Id*. at pp. 258–260.) It does not stand for the proposition that a prevailing party is entitled to fees if it cannot prove that fees are authorized under statute or contract.

B. Section 5975 Fees

1. *Applicable law*

The trial court denied WCST attorney fees under section 5975, subdivision (c), because its quiet title action did not seek to enforce the complex's governing documents. WCST's second and third arguments both contend that this finding was erroneous. It has not shown any error.

"'The Davis–Stirling Act, enacted in 1985 [citation], consolidated the statutory law governing condominiums and other common interest developments.'" (*Rancho Mirage Country Club Homeowners Assn. v. Hazelbaker, supra,* 2 Cal.App.5th at p. 258.) Section 5975 is a part of the Davis–Stirling Act. It generally allows certain parties to file lawsuits to enforce CC&R's and other "governing document[s]." (§ 5975, subds. (a) & (b).) "'Governing documents'" are documents that "govern the operation of the common interest development or association," including CC&R's, "bylaws, operating rules, articles of incorporation, or articles of association." (§ 4150.)

Section 5975 contains an attorney fee provision, which states that "[i]n an action to enforce the governing documents, the prevailing party shall be awarded reasonable attorney's fees and costs." (§ 5975, subd. (c).) A party seeking attorney fees under this subdivision must prove two elements. First, it must show "the existence of 'an action to enforce the governing documents.'" (*Grossman v. Park Fort Washington Assn.* (2012) 212 Cal.App.4th 1128, 1133.) Second, it must show that it was a "prevailing party." (*Ibid*.) Only the first prong is in dispute here.

The term "action to enforce" "encompasses the complaint '*but refers to the entire judicial proceeding at least through judgment* and is generally considered synonymous with "suit."'" (*Salawy v. Ocean Towers Housing Corp.* (2004) 121 Cal.App.4th 664, 672 (*Salawy*), italics added.) To obtain fees under section 5975, subdivision (c), the action must do more than "'aris[e] out of or relate[] to' the governing documents." (*Id*. at p. 674.) Rather, the gravamen of the action must seek to enforce rights provided by the governing documents. (See *id.* at p. 675; *Kaplan v. Fairway Oaks Homeowners Assn.* (2002) 98 Cal.App.4th 715, 719–721; *Salehi v. Surfside III Condominium Owners Assn., supra,* 200 Cal.App.4th at p. 1152.)

2. *Gravamen of the quiet title action*

As we explain below, WCST has not shown any error with the trial court's conclusion that it failed to "cite any portion of the [CC&R's] [it] was trying to enforce in proceeding with the Quiet Title cause of action." The record indicates the gravamen of WCST's quiet title action—the only claim tried—was to enforce rights created by the grant deeds. At most, WCST has shown that its quiet title action arose out of or related to the CC&R's, the Map, and the Plan, which is insufficient under section 5975, subdivision (c). (See *Salawy*, *supra*, 121 Cal.App.4th at p. 672.)

The complaint set forth a disagreement based on the parties' respective grant deeds. It began by quoting language from WCST's grant deed stating that WCST was "sole fee title owner" of Unit 38, which included, "'PARCEL 1: GARAGE 38G (A–B),'" i.e., garage spaces <u>38G-a</u> and 38G-b. The complaint then explained that WCST's "Grant deed and every previous Grant Deed [for WCST's unit] dating back to the original builders [*sic*] Grant Deed references the original condo map with Parcel 1: Garage 38 G(A-B) where '<u>38G-a</u>' is half of an enclosed two car garage and '38G-b' is a separate standalone single car garage located in the adjacent alley within the complex also clearly noted as '38G-b' on the map." (Underlining added.)

In contrast, the complaint noted that Ling's grant deed included "Garage 39G which references the condo map with two garage spaces for this unit marked '39G-a' and '39G-b' and every previous Grant Deed [for Ling's unit] dating back to the original builders Grant Deed references the original condo map with Parcel 1: Garage 39 G(A-B) where '39G-a' is half of an enclosed two car garage shared with the neighbor and '39G-b' is also separate standalone single car garage located in the adjacent alley within the complex noted as 39G-b on the map." In short, the complaint alleges that WCST's right to garage space <u>38G-a</u> was created by its grant deed, and the Map only showed where the relevant garage spaces were located.

Likewise, the statement of facts in WCST's trial brief asserted that "[o]n July 2, 2018, [WCST] acquired fee title to Unit 38 and [<u>38G-a</u>], and *by virtue of a Grant Deed*, became the sole fee title owner of the real property . . . , including 'PARCEL 1: GARAGE 38 G (A-B),'" i.e., garage space <u>38G-a</u> and 38G-b. (Italics added & boldface omitted.) WCST's trial brief also explained, "[t]he garage spaces are granted to the Unit owners in fee title, *via*

Grant Deed, and do not constitute any common area or any undivided interest." (Italics added.)

The judgment quieting title in WCST's favor was also based on the parties' respective grant deeds. The court explained that the "fourth page of [WCST's grant deed] clearly indicates . . . that the garage space[s] [38G-a and 38G-b] did come with Unit 38. Therefore, WCST is the legal and proper owner of garage space [38G-a and 38G-b]." The record does not contain a trial transcript, so it is unclear whether WCST made any arguments that it acquired title to garage space 38G-a through the CC&R's or any other governing documents. Thus, we must presume that no such arguments were made, or they were secondary to the arguments based on the grant deeds.[9] (*Cahill*, *supra*, 194 Cal.App.4th at p. 956.)

WCST argues that the gravamen of the action was "[t]o get Ling into compliance with the CCRs/[the Plan], by not using" garage space 38G-a. However, it fails to identify the specific rights provided by the Plan or the CC&R's that the *quiet title* action sought to enforce.

WCST asserts that the complaint identified two provisions of the CC&R's that Ling allegedly violated.

- "Clause VII (1) of the CCRs, page 11 states: 'Each Owner shall fully comply with said Covenants and with such rules and regulations governing the use of the Project as are adopted by the Board.'"
- "Clause III 5 of the CCRs, page 4 states: 'No . . . offensive activity shall be carried on, in or upon any part of the project nor shall anything be

[9] Several trial exhibits in the record show that WCST introduced the CC&R's, the Plan, and the Map into evidence at trial. But WCST has not shown that it ever argued at trial that any of these governing documents conveyed it a title interest in garage space 38G-a.

done therein or thereon which may become an annoyance or nuisance to the neighborhood.'"

However, these allegations were contained in WCST's cause of action for violations of the CC&R's, which it voluntarily waived after prevailing on the quiet title claim. WCST cites nothing in the record showing that these alleged CC&R violations were raised at trial, much less that they formed the gravamen of its quiet title claim. (See *Kaplan v. Fairway Oaks Homeowners Assn.*, *supra*, 98 Cal.App.4th at pp. 719–721; *Salawy*, *supra*, 121 Cal.App.4th at p. 672.) Nor has WCST shown that it is entitled to fees under section 5975 for claims alleged in the complaint that were later dismissed.

WCST also argues that it sought to protect itself from "improper conduct by another Homeowner, bound by the terms of the CCRs/[the] Plan, to use only their designated garage space." WCST appears to support this point by citing a portion of the Plan that states, "all areas shown on the within plan identified by the letter 'G' are garage areas consisting of a fee in air space and are appurtenant and allocated to the units bearing the same numbers." WCST does not elaborate on this point, and we are not "'obliged to speculate about which issues counsel intend[ed] to raise.'" (*Hernandez v. First Student, Inc.* (2019) 37 Cal.App.5th 270, 277.) However, WCST appears to suggest that this portion of the Plan conveyed the owner of Unit 38 an ownership interest in garage space <u>38G-a</u> because they bear the same number (38). WCST has not shown that it made this argument during trial or that it sought to enforce this purported right through its quiet title claim. Rather, as set forth above, the record indicates the gravamen of WCST's quiet title claim was to enforce rights provided by its grant deed.

Finally, the cases WCST cites are inapposite. They all involved actions to enforce a specific right provided by a governing document.[10] (See *Tract 19051 Homeowners Assn. v. Kemp* (2015) 60 Cal.4th 1135, 1139–1140 [alleged violation of CC&R height and setback restrictions]; *Champir, LLC v. Fairbanks Ranch Assn.* (2021) 66 Cal.App.5th 583, 587–588 [alleged violation of CC&R provisions concerning capital expenditure funding]; *Rancho Mirage Country Club Homeowners Assn. v. Hazelbaker*, *supra*, 2 Cal.App.5th at pp. 255–256 [alleged violation of CC&R provisions concerning property improvements]; *Crestmar Owners Assn. v. Stapakis* (2007) 157 Cal.App.4th 1223, 1225–1226 [action to enforce CC&R provision concerning parking space transfers]; *Chee v. Amanda Goldt Property Management* (2006) 143 Cal.App.4th 1360, 1364–1366, 1379–1381 [action to enforce provision of CC&R's concerning pet ownership]; *Kaplan v. Fairway Oaks Homeowners Assn.*, *supra*, 98 Cal.App.4th at pp. 719–720 [action to enforce voting rights under bylaws].)

C. Contractual Attorney Fees

WCST also argues the court erred by denying it contractual attorney fees under the CC&R's. (§ 1717, subd. (a).) The CC&R's contain an attorney fee provision that states, "Any Owner, . . . may enjoin any violation of these Restrictions, or a rule or regulation duly adopted by the Board hereunder, or to prosecute any other appropriate legal or equitable action that may be necessary under the existing facts. Any judgment rendered in

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[10] WCST appears to suggest that the trial court applied the wrong legal standard by only considering whether its action sought to enforce the CC&R's rather than "the governing documents." (See § 5975, subd. (c).) This argument was not given a separate header, so we need not address it. Nor is this argument persuasive. The fee order expressly discussed the other governing documents cited by Ling, such as the Plan.

any such action or proceeding shall include a sum for attorneys' fees, in such amount as the Court may adjudge reasonable, in favor of the prevailing party."

WCST's arguments fail for the same reason as its arguments under section 5975, subdivision (c). It has not explained how the quiet title action sought to enforce any rights provided by the CC&R's. While it cites the same CC&R provisions set forth above, i.e., "Clause VII (1)" and "Clause III 5" of the CC&R's, WCST has not shown or explained how its quiet title action sought to enforce these provisions.

DISPOSITION

The fee postjudgment order is affirmed. Ling is entitled to her costs on appeal.

MOORE, J.

WE CONCUR:

MOTOIKE, P. J.

SCOTT, J.