Kims Trust v. Lopez Case No. 25CV04738
Hearing Date: September 9, 2025
Petition to Release Mechanic's Liens

According to the verified petition, on April 25, 2025, respondent Raul Lopez filed a mechanic's lien against petitioner's property at 2500 Wild Oak Road in Lompoc in the amount of $219,812.00. Attached to the petition is a copy of that recorded lien. Petitioner asserts that the lien is fraudulent; respondent is a former tenant of the property; respondent is not a licensed contractor; and at no time was respondent an employee or hired contractor of Kims Trust. Petitioner requests that the court order the lien released and award attorney's fees and costs incurred in this proceeding. No opposition has been filed.

Some legal background seems appropriate before addressing the merits of the petition. Claimants enforce their mechanics liens through foreclosure and must commence a foreclosure suit within 90 days after recording the lien. (Civ. Code,[1] § 8460, subd. (a); see *RGC Gaslamp, LLC v. Ehmcke Sheet Metal Co., Inc.* (2020) 56 Cal.App.5th 413, 423; see 9 Miller & Starr, Cal. Real Estate (4th ed. 2024) § 32:54.) If the complaint in the foreclosure action is not filed within 90 days, the lien expires (i.e., it becomes stale) and is not enforceable against the property. (Civ. Code, § 8460.) In this situation, an owner may file a petition to release the property from the lien. (§ 8480, subd. (a); see *RGC Gaslamp, LLC, supra*, 56 Cal.App.5th at p. 423.) Section 8480, subdivision (b) provides: "This article does not bar any other cause of action or claim for relief by the owner of the property. A release order does not bar any other cause of action or claim for relief by the claimant, other than an action to enforce the claim of lien that is subject of the release order."

Procedurally, the owner may not petition the court for a release order unless "at least 10 days before filing the petition the owner gives the claimant notice demanding that the claimant execute and record a release of the claim of lien," and the notice must "comply with the requirements of Chapter 2 (commencing with Section 8100) of Title 1, and shall state the grounds for the demand." The release petition must be verified and must include certain allegations. (§ 8484.) A court must rule on the release petition no later than 60 days after the filing of the petition, a timeframe met here. Petitioner must serve a copy of the petition and notice of the hearing at least 15 days before the hearing, and service shall be made in the same manner as a summons or by certified or registered mail, postage prepaid, return receipt requested. (§ 8486.) Finally, at the hearing, petitioner has the burden of proof to show compliance with all procedural requirements, and the claimant (respondent) has the burden of proof as to the validity of the lien. (§ 8488.) The prevailing party is entitled to reasonable attorney's fees. (§ 8488, subd. (c).)

Here, according to the Notice of Hearing filed on August 4, 2025, the petition was served on Raul Lopez on August 2, 2025, by mail, both at the address of the

[1] All future statutory references are to the Civil Code unless indicated otherwise.

subject property and at 3478 Rucker Road, Lompoc, California 93436. It is unclear whether the Rucker Road address is a valid address, as the verified petition asserts that respondent cannot be located with reasonable diligence. (Petition, ¶¶ 10, 12.) Moreover, mailed service is appropriate only if its certified or registered mail, postage prepaid, return receipt requested. (§ 8486, subd. (b).) The proof of service simply states it was "deposited [in a] sealed envelope with the United States Postal Service, with the postage fully prepaid." (Proof of Service filed August 4, 2025.) The petition has not been properly served.

But more importantly, it appears that the statutory procedure to release the mechanic's lien is inapplicable. Section 8480, subdivision (a) authorizes "[t]he *owner of property* or the *owner of any interest in property subject to a claim of lien*" to petition the court for an order for release. The verified petition states: "The Property was sold on June 30, 2025. To effectuate the transaction of the sale with the Lien on title, a bond was required by the title company to substitute for the Property as collateral for the Lien. As of the filing of this Petition, the Lien remains in place and Petitioners remain responsible for the bond." (Petition, ¶ 13.)

This is permitted under the statutory scheme. An owner faced with a mechanic's lien may record a release bond amounting to 125 percent of the lien claim. "On recordation of the bond, the real property is released from the claim of lien and from any action to enforce the lien." (§ 8424, subd. (c); *RGC Gaslamp, LLC, supra,* 56 Cal.App.5th at 424.) Once a release bond is recorded, it becomes the lien claimant's sole recourse for collecting sums due. The recording of the release bond does not extinguish the lien; rather, the bond is substituted for the land as the object to which the lien attaches. (*Id.*) A claimant must commence an action on the bond within six months of receiving notice of the bond. (§ 8424, subd. (d).)

In other words, the petitioner is ***not*** the current owner of the property or the owner of any interest in the property. The statutory procedure for release of the mechanic's lien against the property is no longer applicable. At a minimum, the claimant must be given notice of the bond and has six months of receiving notice to commence an action on the bond. For any other relief, petitioner must look to the law governing release of a bond.

The petition is denied.