

M.A. SMITH FOUNDATIONS, INC.

v.

SAVINGS BANK OF MAINE

Argued April 12, 2011
Decided April 28, 2011

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD,
GORMAN, and JABAR, JJ.

MEMORANDUM OF DECISION

M.A. Smith Foundations, Inc. (Smith Foundations) appeals from the entry of summary judgment by the Superior Court (Aroostook County, *Hunter, J.*) on its complaint of negligence in the removal of collateral it had pledged to a predecessor of Savings Bank of Maine (the Bank) on a loan. Contrary to Smith Foundations' contentions, (1) the court did not err in holding that suit is barred because Smith Foundations' claims were compulsory counterclaims to the prior action between the parties, *see Sebra v. Wentworth*, 2010 ME 21, ¶ 11, 990 A.2d 538, 542 (de novo standard of review); *Efstathiou v. Aspinquid, Inc.*, 2008 ME 145, ¶ 25, 956 A.2d 110, 119 (“[A] defendant who fails to interpose a compulsory counterclaim as required by [M.R. Civ. P.] 13(a) is precluded from later maintaining another action on the claim after rendition of judgment.” (quotation marks omitted)); M.R. Civ. P. 13(a)(1); and (2) the court did not err in entering summary judgment because there was no genuine issue of material fact regarding whether the Bank was estopped from asserting claim preclusion, *see Blue Star Corp. v. CKF Props., LLC*, 2009 ME 101, ¶ 29, 980 A.2d 1270, 1277 (upholding summary judgment because the non-moving party “has failed to allege facts that, even if true, would generate a successful [argument] based on either waiver or equitable estoppel”).

The entry is:

Judgment affirmed.

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