

JPMORGAN CHASE BANK, N.A.

v.

ESTATE OF JACQUELYN M. CHILDS

Submitted on Briefs October 31, 2013

Decided November 5, 2013

Panel: ALEXANDER, LEVY, SILVER, MEAD, and JABAR, JJ.

#### MEMORANDUM OF DECISION

The Estate of Jacquelyn M. Childs appeals from a judgment of foreclosure entered by the Superior Court (Kennebec County, *Murphy, J.*) concerning real property owned by Childs in the City of Gardiner. Contrary to the Estate's contention, the court did not obviously err in admitting, without objection, an exhibit offered by JPMorgan Chase Bank, N.A. (the Bank), establishing that it gave the notice required by 14 M.R.S. § 6111 (2012). *See State v. Patton*, 2012 ME 101, ¶ 28, 50 A.3d 544 (stating standard of review). Furthermore, the court did not clearly err in finding on this record that the Bank did not accept payments on the loan secured by the mortgage proffered by the Estate's personal representative, and that the Estate therefore failed to prove the affirmative defense of waiver set out in 14 M.R.S. § 6321 (2012). *See Eagle Rental, Inc. v. State Tax Assessor*, 2013 ME 48, ¶ 10, 65 A.3d 1278 (stating that the trial court's findings of fact are reviewed for clear error); *Kasu Corp. v. Blake, Hall & Sprague, Inc.*, 540 A.2d 1112, 1113 (Me. 1988) (stating that party raising an affirmative defense has the burden of proof).

The entry is:

Judgment affirmed.

---

**On the briefs:**

Andrew T. Dawson, Esq., Goodspeed & O'Donnell, Augusta, for appellant  
Estate of Jacquelyn Childs

Adam J. Shub, Esq., and Jonathan G. Mermin, Esq., Preti Flaherty, LLP,  
Portland, for appellee JP Morgan Chase Bank, N.A.

Kennebec County Superior Court docket number RE-2011-103  
FOR CLERK REFERENCE ONLY