

KEYBANK NATIONAL ASSOCIATION

v.

GARTH GRANDCHAMP et al.

Argued February 13, 2013
Decided February 21, 2013

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

MEMORANDUM OF DECISION

Garth and Anne Grandchamp appeal from an order of the Superior Court (Cumberland County, *Cole, J.*) granting KeyBank National Association's motion for relief from judgment pursuant to M.R. Civ. P. 60(a). The court had previously dismissed KeyBank's complaint seeking a judgment of foreclosure due to KeyBank's failure to participate in mediation, but did not indicate whether the dismissal was with or without prejudice. *See* M.R. Civ. P. 93(j). The court granted KeyBank's Rule 60(a) motion and clarified that the dismissal was without prejudice. Contrary to the Grandchamps' arguments, the order dismissing KeyBank's complaint was not a final judgment because the Grandchamps' counterclaims remained unresolved. *See* M.R. Civ. P. 54(b)(1); *Bank of N.Y. v. Richardson*, 2011 ME 38, ¶¶ 7-8, 15 A.3d 756. Moreover, the court did not abuse its discretion in clarifying that its dismissal of KeyBank's complaint was without prejudice. *See* M.R. Civ. P. 54(b)(1), 60(a).

The entry is:

Judgment affirmed.

On the briefs:

Eric M. Mehnert, Esq., and Logan E. Perkins, Esq., Hawkes & Mehnert, LLP, Bangor, for appellants Garth and Anne Grandchamp

Bruce B. Hochman, Esq., and Maureen M. Sturtevant, Esq., Lambert Coffin, Portland, for appellee KeyBank National Association

At oral argument:

Logan E. Perkins, Esq., for appellants Garth and Anne Grandchamp

Bruce B. Hochman, Esq., for appellee KeyBank National Association