

DARRELL TIBBETTS

v.

JOSEPH BESSEY

Submitted on Briefs September 28, 2015
Decided October 6, 2015

Panel: ALEXANDER, MEAD, GORMAN, JABAR, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Joseph Bessey appeals from a judgment of foreclosure entered by the Business and Consumer Docket (*Murphy, J.*) following a nonjury trial on Darrell Tibbetts's complaint and Joseph Bessey's counterclaim. After review of the trial record and the arguments of the parties, we affirm the judgment for the reasons stated below.

First, the court did not err or abuse its discretion by admitting testimony regarding Bessey's payment history, allowing leading questions on direct examination, or admitting a summary of accounting calculations for the limited purpose of aiding the court with its calculations. *See* M.R. Evid. 611, 616, 801(c), 1002.¹ Second, there is sufficient evidence in the record to support the finding that Tibbetts satisfied the elements of proof to support a judgment of foreclosure. *See* 14 M.R.S. § 6322 (2014); *Chase Home Finance LLC v. Higgins*, 2009 ME 136, ¶ 11, 985 A.2d 508. Third, as the note on the mortgage was already mature and payment on the entire note was overdue, it is irrelevant whether Tibbetts waived

¹ The Maine Rules of Evidence were restyled on January 1, 2015, but the substance of each rule is unchanged.

the right of acceleration. *Cf. Briggs v. Briggs*, 1998 ME 120, ¶¶ 10-11, 711 A.2d 1286. Fourth, there is sufficient evidence in the record to support the finding that Bessey failed to prove wrongful possession of collateral or a breach of the peace. *See* 11 M.R.S. § 9-1609 (2014).

The entry is:

Judgment affirmed.

On the briefs:

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