

DEUTSCHE BANK NATIONAL TRUST COMPANY

v.

BONNIE J. MARTIN et al.

Submitted on Briefs April 27, 2017
Decided May 4, 2017

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

MEMORANDUM OF DECISION

Deutsche Bank National Trust Company (Bank) appeals from a judgment of the District Court (Rockland, *Billings, J.*) dismissing for lack of standing its complaint in which it sought, inter alia, a foreclosure judgment and reformation of the mortgage upon which the foreclosure action was based.

Contrary to the Bank's contentions, the court did not err in concluding that the Bank failed to prove ownership of the mortgage as is required to establish standing to foreclose. *See Bank of America, N.A. v. Greenleaf*, 2014 ME 89, ¶ 12, 96 A.3d 700; *U.S. Bank Nat'l Ass'n v. Adams*, 2014 ME 113, ¶ 3 n.1, 102 A.3d 774. Although the Bank introduced extrinsic evidence purporting to prove that Mortgage Electronic Registration Services (MERS) had authority to assign to the Bank's predecessor in interest an ownership interest sufficient to convey standing upon the Bank to seek foreclosure, the unambiguous terms of the mortgage itself created in MERS "only the right to record the mortgage as nominee for the lender." *Greenleaf*, 2014 ME 89, ¶ 15, 96 A.3d 700; *see also U.S. Bank N.A. v. Curit*, 2016 ME 17, ¶ 9 n.4, 131 A.3d 903; *Mortg. Elec. Registration Sys., Inc. v. Saunders*, 2010 ME 79, ¶¶ 15, 26, 2 A.3d

289. Therefore, because the unambiguous terms of the mortgage itself did not create in MERS an interest sufficient to allow it to pursue a foreclosure action, the court was not required to rely on extrinsic evidence that suggested otherwise.

Similarly, the court did not err in concluding that the Bank also lacked standing to seek reformation of the mortgage. Because the Bank “stood in the shoes” of its predecessor in interest for reformation purposes, and because MERS’s interest in the mortgage was limited to recording purposes only, the Bank did not have sufficient standing to seek reformation of the mortgage. *See First Union Nat’l Bank v. Curtis*, 2005 ME 108, ¶ 13, 882 A.2d 796; *Jones v. Carrier*, 473 A.2d 867, 869 (Me. 1984); *Sargent v. Coolidge*, 433 A.2d 738, 741 n.5 (Me. 1981).

The entry is:

Judgment affirmed.

William A. Fogel, Esq., Portland, and Andrew C. Feldman, Esq., Houser & Allison, APC, Boston, Massachusetts, for appellant Deutsche Bank National Trust Company

Bonnie J. Martin did not file a brief