

DEUTSCHE BANK TRUST COMPANY AMERICAS¹

v.

STEPHEN L. CLIFFORD

Submitted on Briefs May 4, 2020
Decided May 12, 2020

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

MEMORANDUM OF DECISION

Stephen L. Clifford appeals from a judgment of foreclosure entered by the District Court (Bangor, *Larson, J.*) in favor of Deutsche Bank Trust Company Americas concerning Clifford's real property in Brewer. Clifford contends that Deutsche Bank failed to prove several of the required elements of its foreclosure case, including "the existence of the mortgage"; "ownership of the mortgage note and . . . the mortgage, including all assignments . . . of . . . the mortgage"; "the amount due on the mortgage note"; and "evidence of . . . notice of default and mortgagor's right to cure in compliance with statutory requirements." *Bank of Am., N.A. v. Greenleaf*, 2014 ME 89, ¶ 18, 96 A.3d 700.

At trial, the court admitted the exhibits offered by Deutsche Bank to prove the required elements *de bene* over Clifford's objection and implicitly found them to be admissible in entering its foreclosure judgment. However, because the court denied Clifford's M.R. Civ. P. 52 motion for further findings concerning the admissibility of the exhibits that were admitted *de bene*, "we

¹ The plaintiff's full designation is Deutsche Bank Trust Company Americas, as Trustee for Residential Accredit Loans, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2007-QS9.

cannot infer findings from the evidence in the record,” *McLean v. Robertson*, 2020 ME 15, ¶ 11, 225 A.3d 410 (quotation marks omitted), and therefore, because “the judgment does not include specific findings that are sufficient to support the result, appellate review is impossible and the order denying findings must be vacated,” *id.* (quotation marks omitted). We therefore vacate the order denying Clifford’s motion for further findings and remand. *See Klein v. Klein*, 2019 ME 85, ¶ 8, 208 A.3d 802.

On remand, concerning each of the exhibits admitted *de bene*, and concerning any other issues it deems appropriate, “the trial court must ensure that the judgment is supported by express factual findings that are based on record evidence, are sufficient to support the result, and are sufficient to inform the parties and any reviewing court of the basis for the decision.” *McLean*, 2020 ME 15, ¶ 11, 225 A.3d 410 (quotation marks omitted).

The entry is:

Order denying Clifford’s motion for further findings vacated; remanded for further proceedings consistent with this decision.

Patrick E. Hunt, Esq., Patrick E. Hunt, P.A., Island Falls, for appellant Stephen L. Clifford

Brett L. Messinger, Esq., and Elizabeth M. Lacombe, Esq., Portland, for appellee Deutsche Bank Trust Company Americas