

VON SCOTT

v.

FEDERAL NATIONAL MORTGAGE ASSOCIATION

Submitted on Briefs March 27, 2024
Decided April 23, 2024

Panel: STANFILL, C.J., and MEAD, HORTON, and LAWRENCE, JJ.

MEMORANDUM OF DECISION

Von Scott appeals from an order of the Superior Court (Cumberland County, *Kennedy, J.*) dismissing his complaint against Federal National Mortgage Association (Fannie Mae) pursuant to Maine Rule of Civil Procedure 12(b)(6) for failure to state a claim and imposing sanctions under Maine Rule of Civil Procedure 11(a) for knowingly filing an action without grounds to support the claims and fabricating citations in support of the legally dubious assertions.

Scott's complaint asserts that Fannie Mae wrongfully foreclosed on his interest in real property at 4 Sagamore Lane, Brunswick, ME 04011. Scott alleges that he acquired the property in July 2020 under an oral contract with Joseph Sharpe, the property owner, and memorialized the contract in writing in December 2022. Fannie Mae initiated a foreclosure action on Sharpe's interest in 2019, received a judgment of foreclosure on the 4 Sagamore Lane property in May 2022, and sold the property to a third party in December 2022.

The Maine statute of frauds bars enforcement of contracts for the sale of land unless they are in writing. 33 M.R.S. § 51 (2023); *Wilson v. DelPapa*, 634

A.2d 1252, 1254 (Me. 1993). The alleged oral contract is unenforceable. Scott's written contract with Sharpe for the property is dated two weeks after the foreclosure sale. Under 14 M.R.S. § 6321 (2023), the foreclosure sale extinguished any claim against the property by a person who did not have a recorded interest prior to the sale. The court properly dismissed Scott's complaint for failing to state a claim.¹

We further conclude that the trial court did not abuse its discretion by imposing sanctions against Scott for knowingly filing a pleading without grounds and citing to non-existent legal authority in support of his position. *See Hamlin v. Cavagnaro*, 2016 ME 8, ¶ 17, 131 A.3d 365 (evaluating the imposition of fees and sanctions under the abuse of discretion standard).

Finally, we issued a show cause order on October 23, 2023, requiring Scott to demonstrate why he should not be sanctioned for taking a frivolous appeal and Scott has failed to make such a showing. Scott's appeal is indeed frivolous because it seeks relief "*with no reasonable likelihood of prevailing*," thereby increasing litigation costs and wasting time and resources." *Whittet v. Whittet*, 2017 ME 156, ¶ 3, 167 A.3d 1258 (quotation marks omitted) (emphasis added). Pursuant to Rule 13(f), we award Fannie Mae its reasonable attorney's fees and expenses incurred on appeal. M.R. App. P. 13(f).

The entry is:

Judgment affirmed. Pursuant to M.R. App. P. 13(f), Federal National Mortgage Association is awarded its attorney fees and expenses on appeal. Remanded to the Superior Court for determination of the awarded attorney fees and expenses.

¹ The court properly considered the Bank's foreclosure complaint and judgment along with the purported conveyance to Von Scott in deciding the Bank's Rule 12(b)(6) motion because they were integral to Von Scott's complaint. *See Moody v. State Liquor & Lottery Comm'n*, 2004 ME 20, ¶ 11, 843 A.2d 43 (stating that "official public documents, documents that are central to the plaintiff's claim, and documents referred to in the complaint may be properly considered on a motion to dismiss without converting the motion to one for a summary judgment when the authenticity of such documents is not challenged").

Von Scott, appellant pro se

Daniel L. Cummings, Esq., Norman, Hanson & DeTroy, LLC, Portland, for
appellee Federal National Mortgage Association

Cumberland County Superior Court docket number RE-2023-37
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