

LIONEL N. NGAPEY

v.

FRANCOISE MAKUIZA et al.

Submitted on Briefs April 23, 2025
Decided May 1, 2025

Panel: STANFILL, C.J., and MEAD, CONNORS, LAWRENCE, DOUGLAS, JJ.

MEMORANDUM OF DECISION

Lionel N. Ngapey appeals from a judgment of the District Court (Portland, *Wilson, J.*) in favor of Francoise Makuiza and Alvaro Diabanza in an action alleging breach of contract. Ngapey did not include the trial transcript on appeal. As a result, we assume the court's findings of fact and discretionary rulings during the proceeding are supported by the record. *See Clark v. Heald*, 2009 ME 111, ¶ 2, 983 A.2d 406. We therefore conclude that the court did not err or abuse its discretion in denying Ngapey's motion to amend the complaint, which was made for the first time during the trial.¹ *See Montgomery v. Eaton Peabody, LLP*, 2016 ME 44, ¶ 13, 135 A.3d 106; M.R. Civ. P. 15(a).

¹ Neither the parties nor the trial court addressed whether the doctrine of claim preclusion should be applied in any future actions commenced by Ngapey or the appellees for partition or other legal actions related to the ownership of the property and obligations under the mortgage. We do not address that issue here except to note that the application of the doctrine would leave the parties deadlocked in untenable circumstances. The trial court, in any future action, retains the prerogative to apply, or not apply, the doctrine after considering the facts and equities as might inform its decision. *See Tarnawa v. Goode*, 213 A.3d 867, 873-75 (N.H. 2019); *Burns v. Wood*, 427 S.W.2d 353, 356-57 (Tex Civ. App. 1968).

The entry is:

Judgment affirmed.

Lionel Ngapey, appellant pro se

Francoise Makuiza did not file a brief

Alvaro Diabanza did not file a brief

Portland District Court docket number RE-2023-3
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