

DEUTSCHE BANK TRUST COMPANY AMERICAS, AS TRUSTEE FOR
RESIDENTIAL ACCREDIT LOANS, INC., MORTGAGE ASSET-BACKED
PASS-THROUGH CERTIFICATES, SERIES 2007-QA2

v.

JOHN M. KENDALL et al.

Argued Tuesday, April 8, 2025
Decided May 13, 2025

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

MEMORANDUM OF DECISION

Deutsche Bank Trust Company Americas, as Trustee for Residential Accredit Loans, Inc., Mortgage Asset-backed Pass-through Certificates, Series 2007-QA2 (Deutsche Bank) appeals from a judgment for John M. Kendall and S. Sherman B. Kendall a/k/a Sherman B. Kendall (the Kendalls) entered in the Superior Court (Cumberland County, *McKeon, J.*) after a nonjury trial on Deutsche Bank's complaint for foreclosure.

Contrary to Deutsche Bank's assertions, there was sufficient evidence in the record to support the court's determination that Deutsche Bank lacked standing to foreclose, *see Bank of Am., N.A. v. Greenleaf*, 2014 ME 89, ¶ 17, 96 A.3d 700, and the record does not compel a different result, *see Wilmington Tr., Nat'l Ass'n, as Tr. for MFRA Tr. 2014-2 v. Berry*, 2020 ME 95, ¶ 15, 237 A.3d 167.¹

¹ Further, the court did not clearly err or abuse its discretion in admitting certain exhibits and not others. *See State v. Mooney*, 2012 ME 69, ¶ 9, 43 A.3d 972.

Rather than entering a judgment in favor of the Kendalls, however, the court should have dismissed the case without prejudice for lack of standing. *See Bank of Am., N.A. v. Greenleaf*, 2015 ME 127, ¶¶ 6-9, 124 A.3d 1122; *Homeward Residential, Inc. v. Gregor*, 2015 ME 108, ¶¶ 24, 26, 122 A.3d 947.

The entry is:

Judgment vacated. Remanded to the Superior Court to enter a judgment dismissing the case for lack of standing.

Brett L. Messinger, Esq. (orally), and Elizabeth M. Lacombe, Esq., Duane Morris LLP, Portland, for appellant Deutsche Bank Trust Company Americas

Peter Clifford, Esq., Clifford & Clifford, LLC, Portland, and Alicia Curtis, Esq. (orally), Curtis Law, PLLC, Portland, for appellees John M. Kendall and S. Sherman B. Kendall

Cumberland County Superior Court docket number RE-2017-303
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