

BAY VIEW BANK, N.A.

v.

THE HIGHLAND GOLF MORTGAGE REALTY TRUST et al.

Submitted on Briefs January 22, 2004

Decided January 29, 2004

Panel: CLIFFORD, RUDMAN, DANA, ALEXANDER, and CALKINS, JJ.

MEMORANDUM OF DECISION

Advantage Tennis, Inc. appeals from a judgment entered in Superior Court (York County, *Fritzsche, J.*) for Bay View Bank, N.A. on Advantage's counterclaim for unjust enrichment. Contrary to Advantage's contention, the court did not err in concluding that Advantage was an unsecured creditor. Advantage's previous action in the District Court against Bay View Bank to enforce a mechanic's lien was dismissed on Bay View Bank's motion. Furthermore, the court did not clearly err when it found that it would be unjust to place Advantage, which failed to avail itself of the remedies and protections available to it, before a first priority secured creditor. *See Howard & Bowie, P.A. v. Collins*, 2000 ME 148, ¶ 13, 759 A.2d 707, 710.

The entry is:

Judgment affirmed.

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