

COLIN MARTINDALE

v.

MICHAEL McCUE et al.

Submitted on Briefs November 1, 2007
Decided November 6, 2007

Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, SILVER, and
GORMAN, JJ.

MEMORANDUM OF DECISION

Michael and Patricia McCue appeal from a judgment entered in Superior Court (Penobscot County, *Mead, J.*) in favor of Colin Martindale following a bench trial on his complaint for breach of contract against the McCues for failing to complete the purchase of Martindale's home. Contrary to the McCues' argument, the trial court did not err in finding that (1) the McCues failed to prove circumstances to justify their unilateral breach of the purchase and sale agreement, *see Botka v. S.C. Noyes & Co.*, 2003 ME 128, ¶ 15, 834 A.2d 947, 952; and

(2) Martindale effectively mitigated his damages, *see Schiavi Mobile Homes v. Gironda*, 463 A.2d 722, 725 (Me. 1983).

The entry is:

Judgment affirmed.

Attorneys for the plaintiff:

Christopher R. Largay, Eqs.
Jennifer E. Walton, Esq.
Largay Law Offices, P.A.
293 State St.
Bangor, Maine 04401

Attorney for the defendant:

Steven Lyman, Esq.
96 Harlow St.
Bangor, Maine 04401