

DEUTSCHE BANK NATIONAL TRUST CO.

v.

RAYMOND B. STRATTON et al.

Submitted on Briefs July 7, 2010

Decided July 22, 2010

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

MEMORANDUM OF DECISION

Raymond B. Stratton and his wife, Harriet, appeal, and Deutsche Bank National Trust Co., successor-in-interest to Ameriquest Mortgage Co., (Deutsche Bank), cross appeals, from a judgment entered in favor of Deutsche Bank in an action for foreclosure, 14 M.R.S. § 6321 (2009), following a non-jury trial in the District Court (Augusta, *J.D. Kennedy, J.*).

Because the case was decided following a trial, our review of the judgment is governed by the deferential standards of review applicable to appeals of decisions based on fact-finding, *see Pratt v. Spaulding*, 2003 ME 56, ¶ 10, 822 A.2d 1183, 1186, rather than the de novo standards of review applicable to appeals of foreclosure actions decided by summary judgment, *see Deutsche Bank Nat'l Trust Co. v. Raggiani*, 2009 ME 120, ¶¶ 6-7, 985 A.2d 1, 3.

Contrary to the Strattons' arguments: (1) the court properly considered the mortgage documents as business records, M.R. Evid. 803(6); (2) there was sufficient evidence to support the court's findings that (i) Deutsche Bank had the authority to enforce the mortgage note, (ii) the mortgage was secured by "Lot 8" in addition to "Lot 7," and (iii) although the court found the Ameriquest mortgage and note unconscionable, the court did not err in determining that the Strattons

were equitably estopped from opposing enforcement of the mortgage and note. Contrary to Deutsche Bank's arguments: (1) the error, if any, in reversing a prior ruling and considering the issue of unconscionability of the Ameriquest mortgage and note, was harmless in light of the issues tried by the parties in addressing the Strattons' claims related to the enforceability of the mortgage and note; and (2) the court's decision to decline to award attorney fees, on this record, can be supported as entirely within the court's discretion.

The entry is:

Judgment affirmed.

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