SUPREME JUDICIAL COURT OF MAINE

First Financial, Inc. v. Peter E. Morrison et al.

First Financial, Inc. v. Peter E. Morrison, 2019 ME 96 (2019) · No. Yor-18-407 · Decided June 13, 2019

SUMMARY

The Maine Supreme Judicial Court affirmed the denial of First Financial's motion for relief from judgment in a foreclosure action. Although the clerk's failure to timely notify First Financial of the entry of judgment warranted treating its motion as a request for an extension of the appeal period, the error was harmless because First Financial conceded that its notice of default and right to cure was defective. The court held that the Morrisons were entitled to judgment on the merits and that additional arguments not raised below were waived.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Per Curiam; Alexander, J.; Mead, J.; Gorman, J.; Jabar, J.; Hjelm, J.; Humphrey, J.
JURISDICTION	Maine
DECIDED	June 13, 2019
DOCKET	Yor-18-407
DISPOSITION	affirmed
PROCEDURAL POSTURE	First Financial appealed from the District Court's denial of its motion for relief from judgment. The underlying judgments denied First Financial's motion to dismiss its foreclosure complaint without prejudice and granted the Morrisons' motion for judgment on the pleadings.
STANDARD OF REVIEW	The court reviewed the denial of relief from judgment and the underlying legal issues for abuse of discretion and legal error, respectively. It applied harmless-error principles to determine whether the failure to extend the appeal period affected First Financial's substantial rights.
PRECEDENTIAL VALUE	Published Maine Supreme Judicial Court opinion; precedential.
PARTIES	First Financial, Inc. v. Peter E. Morrison, Judith B. Morrison

TOPICS

motion for judgment on the pleadings · appellate procedure · foreclosure · motions to dismiss · civil procedure

PRACTICE AREAS

civil procedure · appellate procedure · foreclosure · real estate remedies

QUESTIONS PRESENTED

1. Whether the District Court should have treated First Financial's Rule 60 motion as a motion under Maine Rule of Appellate Procedure 2B(d)(2) for an extension of time to appeal because the clerk failed to provide timely notice of entry of judgment.
2. Whether the District Court's failure to extend the appeal period required reversal when First Financial admitted that its notice of default and right to cure did not comply with 14 M.R.S. § 6111.
3. Whether First Financial could raise on appeal arguments concerning the underlying judgments that it had not presented to the District Court.

HOLDINGS

1. Because the clerk's office failed to notify First Financial of the entry of judgment before the appeal period expired, the District Court should have treated First Financial's Rule 60 motion as a motion for an extension of time to appeal under M.R. App. P. 2B(d)(2) and allowed First Financial an opportunity to appeal from the underlying judgments.
2. The District Court's failure to extend the time for First Financial to appeal was harmless because First Financial conceded that its notice of the right to cure did not comply with 14 M.R.S. § 6111, and the Morrisons were therefore entitled to judgment on the merits.
3. First Financial waived arguments concerning the underlying judgments because it had notice of the Morrisons' motion for judgment on the pleadings and an opportunity to raise those arguments in the District Court but failed to do so.

KEY QUOTATIONS

> *"Immediately upon the entry of an order or judgment the clerk shall serve a notice of the entry in a manner provided for in Rule 5."* (¶10)

> *"Because the clerk's office failed to notify First Financial of the entry of the judgments before the twenty-one day appeal period expired, see M.R. App. P. 2B(c)(1), the court should have treated First Financial's motion for relief pursuant to M.R. Civ. P. 60(a) and (b) as a motion for extension of time to file a notice of appeal pursuant to M.R. App. P. 2B(d)(2) and allowed First Financial the opportunity to appeal from the judgments."* (¶11)

> *"Contrary to First Financial's contentions, we have repeatedly held that when a notice of the right to cure is defective, the mortgagor is entitled to judgment on the merits."* (¶13)

FACTUAL BACKGROUND

First Financial brought a foreclosure action against Peter and Judith Morrison based on an alleged default on a note secured by their Biddeford property. The Morrisons moved for judgment on the pleadings, asserting that First Financial's notice of default and right to cure failed to comply with 14 M.R.S. § 6111. The clerk's office failed to timely notify First Financial that the relevant orders had been entered, but First Financial later admitted the defect in its notice.

PROCEDURAL HISTORY

First Financial filed a foreclosure complaint alleging default on a note secured by the Morrisons' real property. After mediation, the Morrisons moved for judgment on the pleadings based on an allegedly defective notice of default and right to cure, while First Financial moved to dismiss without prejudice. The District Court granted judgment on the pleadings, denied dismissal, and later denied First Financial's Rule 60 motion seeking relief based on the clerk's failure to provide timely notice of entry. The Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Cushing v. Cushing, 2016 ME 112, ¶¶ 8-9, 144 A.3d 588
- Greaton v. Greaton, 2012 ME 17, ¶ 7, 36 A.3d 913
- Shaw v. Packard, 2005 ME 122, ¶ 13, 886 A.2d 1287
- U.S. Bank Trust, N.A. v. Mackenzie, 2016 ME 149, ¶ 11 n.6, 149 A.3d 267
- Wells Fargo Bank, N.A. v. Girouard, 2015 ME 116, ¶¶ 7-11, 123 A.3d 216
- Bank of Am., N.A. v. Greenleaf, 2014 ME 89, ¶ 18, 96 A.3d 700
- Guardianship of Jones, 2017 ME 125, ¶ 19, 164 A.3d 969
- McMahon v. McMahon, 2019 ME 11, ¶ 16, 200 A.3d 789
- Teele v. West-Harper, 2017 ME 196, ¶ 11 n.4, 170 A.3d 803