

BCB LIMITED

v.

BONNIE L. REINER

Submitted on Briefs May 30, 2002
Decided June 19, 2002

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, ALEXANDER, and
CALKINS, JJ.

MEMORANDUM OF DECISION

Bonnie L. Reiner appeals from a judgment entered in the Superior Court (York County, *Fritzsche, J.*) declaring (1) that there is nothing owed on a 1994 promissory note from BCB Limited to Reiner and Barbara L. Daughn, and (2) that a 1994 real estate mortgage securing that note is discharged. The judgment also reflected the courts rejection of the counterclaims of Reiner and Daughn. Contrary to Reiner's contentions, the court's findings that there was an agreement to discharge the mortgage at the time of the sale of the stock of BCB by Reiner and Daughn and that Francis Daughn had the actual authority to agree to the mortgage discharge are supported by the evidence in the record and are not clearly erroneous. *Sargent v. Tomhegan Camps Owners Ass'n*, 2000 ME 58, ¶ 5, 749 A.2d 143, 144. Nor did the court err in concluding that the statute of frauds, 33 M.R.S.A. § 51 (1999), did not preclude the court's finding that there was an agreement to discharge the mortgage. *Wilson v. DelPapa*, 634 A.2d 1252,

1254 (Me. 1993).

The entry is:

Judgment affirmed.

Attorney for plaintiff:

Edward J. Titcomb, Esq.
Titcomb, Marass, Flaherty & Knight, LLC
P O Box 311
Sanford, ME 04073-0311

Attorneys for defendants:

R. Peter Taylor, Esq.
McNeill Taylor & Gallo, P.A.
P O Box 815
Dover, NH 03821

Kennth Kimmel, Esq.
Kimmel & Beach
62 Portland Road
Kennebunk, ME 04043