

JAMES W. GUALTIERI

v.

EQUITY ONE, INC., & another. [1]

No. 15-P-421

Appeals Court of Massachusetts

August 1, 2016

Unpublished Opinion

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

The plaintiff, James W. Gualtieri, filed a complaint in Superior Court alleging that the defendants committed fraud and breached the mortgage contract. The plaintiff appeals from a summary judgment for Equity One, Inc., arguing that the note and mortgage that he executed are fraudulent.^[2] In an earlier appeal by this plaintiff from a final judgment in favor of the other defendant, a panel of this court in *Gualtieri v. Bank of N.Y. Mellon*, 84 Mass.App.Ct. 1126 (2013), held that summary judgment was proper where the plaintiff had no reasonable expectation of proving the essential elements of fraud and breach of contract. The decision has preclusive effect on the plaintiff's claims here. *Jarosz v. Palmer*, 436 Mass. 526, 528 (2002). To the extent that he has standing to make any arguments at all given the prior decision, the plaintiff offers numerous unfocused arguments still challenging the foreclosure process (including assignment of the note and mortgage). Even assuming there were merit in any of his arguments, they either have been, or could have been, adjudicated in the earlier proceedings. The plaintiff may not raise them now. *Judgment affirmed.*

Cypher, Grainger & Kinder, JJ. [3]

Notes:

[1] JPMorgan Chase Bank, trustee for Equity One ABS, Inc., Mortgage/Pass Through Certificate Series #2005-B.

[2] The other defendant named here was dismissed, and separate and final judgment entered.

[3] The panelists are listed in order of seniority.