

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

September 20, 2013

No. 13-10078
Summary Calendar

Lyle W. Cayce
Clerk

ANNA JOYCE WILTSE

Plaintiff - Appellant

v.

CARRINGTON MORTGAGE SERVICES, L.L.C.

Defendant - Appellee

Appeal from the United States District Court for the
Northern District of Texas
USDC No. 4:12-CV-0680

Before HIGGINBOTHAM, DENNIS, and GRAVES, Circuit Judges.

PER CURIAM:*

Anna Joyce Wiltse brought an action against Carrington Mortgage Services in Texas state court, seeking a declaratory judgment that Carrington's lien on her home is invalid. Wiltse alleges that the lien, which secures a \$68,000 loan, is invalid due to noncompliance with Article XVI, Section 50(a)(6) of the Texas Constitution. Specifically, Wiltse alleges that the amount of the loan was greater than eighty percent of the fair market value of her home, and that she

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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was charged more than three percent of the loan's value for closing fees. Carrington removed the case to federal court and moved to dismiss Wiltse's claim as time-barred. Carrington argued that the four-year residual limitations period of Texas Civil Practice and Remedies Code section 16.051, which applies to "[e]very action for which there is no express limitations period, except an action for the recovery of real property," is applicable to Wiltse's claim. The district court granted Carrington's motion and dismissed Wiltse's claim.

On appeal, Wiltse argues that the residual limitations period does not apply to an action under Article XVI, Section 50(a)(6) of the Texas Constitution. However, as Wiltse recognizes, this argument is foreclosed by our holding in *Priester v. JP Morgan Chase Bank, N.A.*, 708 F.3d 667, 673-74 (5th Cir. 2013). Accordingly, we AFFIRM the judgment of the district court.