

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

April 28, 2008

No. 07-40283

Charles R. Fulbruge III
Clerk

GUILLERMO MUNGIA, ERMINIA MUNGIA

Plaintiffs-Appellants

v.

STATE FARM LLOYDS

Defendant-Appellee

Appeal from the United States District Court
for the Southern District of Texas
(02-CV-115)

Before HIGGINBOTHAM, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Guillermo and Erminia Mungia appeal from the district court's ruling on summary judgment that their Texas homeowner's policy does not provide coverage for mold damage to their dwelling that arises from an accidental discharge of water. The Mungias argue that the mold exclusion found in their policy is not applicable because of an "exclusion repeal" provision. They rely on the Texas Supreme Court's decision in *Balandran v. Safeco Ins. Co. of Am.*, 972 S.W.2d 738 (Tex. 1998). We have recently addressed this identical issue,

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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concluding that Balandran is inapplicable and that mold damage to the dwelling is not covered under the policy language at issue here. See *Carrizales v. State Farm Lloyds*, 518 F.3d 343 (5th Cir. 2008). The Mungias's arguments are thus foreclosed by our precedent.

AFFIRMED.