

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

No. 19-11259

United States Court of Appeals
Fifth Circuit

FILED

June 9, 2020

Lyle W. Cayce
Clerk

NORTH PRESIDIO, L.L.C.,

Plaintiff - Appellant

v.

LOWE'S HOME CENTERS, L.L.C.,

Defendant - Appellee

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:19-CV-222

Before DENNIS, ELROD, and COSTA, Circuit Judges.

PER CURIAM:*

North Presidio, L.L.C., a real estate development company, sued Lowe's Home Centers, L.L.C. after Lowe's backed out of a prospective ground lease with North Presidio as the site of a Lowe's store. After allowing North Presidio to amend its complaint, the district court granted Lowe's motion to dismiss for failure to state a claim. Despite North Presidio's substantial development costs ahead of closing on the lease and accompanying agreements, the district

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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court determined that it failed to plausibly state a claim for anything other than the \$50,000 in earnest money plus accrued interest, which was set out by the parties in the Agreement to Enter into Ground Lease as the limit on damages for breach of that agreement. The existence of this same agreement, moreover, barred North Presidio's non-contractual claims for promissory estoppel, quantum meruit, and fraud by non-disclosure. Once Lowe's turned over the \$50,000 plus accrued interest, the district court entered judgment dismissing the action.

After careful review of the record in this case and full consideration of the parties' briefs and oral arguments, we AFFIRM the district court's judgment for essentially the reasons assigned by that court.