

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 08-12929

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT Aug, 3, 2009 THOMAS K. KAHN CLERK

D. C. Docket No. 07-00081 CV-4

JOHN R. YEATMAN, individually and on
behalf of all similarly situated individuals,
ELEANOR E. YEATMAN, individually and
on behalf of all similarly situated individuals,

Plaintiffs-Appellants,

versus

D.R. HORTON, INC.,
DHI MORTGAGE CO.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Georgia

(August 3, 2009)

Before DUBINA, Chief Judge, TJOFLAT, Circuit Judge, and WALTER,* District Judge.

PER CURIAM:

Appellants John Yeatman and Eleanor Yeatman, individually and on behalf of all similarly situated individuals, appeal the grant by the district court of the appellees', D.R. Horton, Inc. ("DRHI") and DHI Mortgage Co., Ltd. ("DHIM"), Rule 12(b)(6) motion to dismiss the Yeatmans' complaint with prejudice. In 2006, the Yeatmans agreed to purchase a home from DRHI, using mortgage financing provided by DRHI's affiliate, DHIM.

The purchase agreement gave the Yeatmans the option of receiving a discount on their closing costs on the house, provided they used DHIM as their mortgage lender. This was not a condition of the contract.

The district court correctly determined that the mere offering of an *option* of a discount on closing costs does not violate the Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. § 2601–2617 (2006). Neither does it violate the United States Department of Housing and Urban Development ("HUD") regulations prohibiting arrangements where consumers are *required* to use a

*Honorable Donald E. Walter, United States District Judge for the Western District of Louisiana, sitting by designation.

specified service in order to buy another service or product, 24 C.F.R. § 3500.2 (2007). *See Spicer v. Ryland Group, Inc.*, 523 F. Supp. 2d 1356.2d (N.D. Ga. 2007).

We have considered the briefs and the well-reasoned opinion of the district court. We conclude that the district court properly dismissed the Yeatmans' complaint with prejudice.

AFFIRMED.