

MAR 30 2010

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN HARPER, LANA KUDINA,

Plaintiffs - Appellants,

v.

MARK BUSH; et al.,

Defendants - Appellees.

No. 08-35613

D.C. No. 3:08-cv-05154-FDB

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Franklin D. Burgess, District Judge, Presiding

Submitted March 16, 2010\*\*

Before: SCHROEDER, PREGERSON, and RAWLINSON, Circuit Judges.

John Harper and Lana Kudina appeal pro se from the district court's judgment in their action arising from their offer to purchase a property in a

---

\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

residential development built by defendants. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002). We affirm.

The district court properly dismissed the action because plaintiffs may not relitigate whether defendants improperly discriminated against them by not accepting their offer to purchase a property because those claims have already been litigated, or could have been litigated, by the parties or their privies in state court. *See Harper v. Coldwell Banker Barbara Sue Seal Props.*, No. 35646-5-II, slip op. at 1 (Wash. Ct. App. Dec. 11, 2007) (affirming summary judgment in favor of defendants or their privies); *see also Chao v. A-One Med. Servs., Inc.*, 346 F.3d 908, 921 (9th Cir. 2003) (describing elements of res judicata under Washington law).

Appellants' remaining contentions are unpersuasive.

Appellees' motions filed on October 22, 2008 are granted. All other pending motions are denied.

**AFFIRMED.**