



**In The
Court of Appeals
Seventh District of Texas at Amarillo**

No. 07-20-00140-CV

INFINITY ROOFING AND GENERAL CONTRACTORS, APPELLANT

V.

TIMOTHY CORTEZ A/K/A/ TIMOTHY CORTEZ AGENCY, APPELLEE

On Appeal from the 251st District Court
Randall County, Texas
Trial Court No. 73,755-C, Honorable Ana E. Estevez, Presiding

November 13, 2020

MEMORANDUM OPINION

Before QUINN, C.J., and PARKER and DOSS, JJ.

Infinity Roofing and General Contractors appeals from a final summary judgment denying it recovery against Timothy Cortez a/k/a Timothy Cortez Agency. Infinity sued Cortez for breach of contract, specific performance, and negligence arising from Cortez's failure to procure a general liability insurance policy as promised. Cortez moved for a no-evidence summary judgment, solely contending that Infinity had no evidence of damages, actual or punitive. The trial court initially denied the motion but subsequently granted it after Cortez moved for reconsideration. Infinity appealed and asserted multiple issues.

We consider only its first. Through it, the company contends that it presented some evidence of damage. We reverse.

“The universal rule for measuring damages for breach of a contract is just compensation for the loss or damage actually sustained.” *Domingo v. Skidmore*, No. 07-09-0392-CV, 2011 Tex. App. LEXIS 7360, at *16–17 (Tex. App.—Amarillo Aug. 31, 2011, pet. denied) (mem. op.). The record contains evidence that Infinity paid Cortez a down payment of \$1,500 for the policy which he allegedly never obtained. Having paid \$1,500 for an insurance product which Cortez failed to deliver is some evidence of damage actually sustained by Infinity due to the purported breach of contract. Consequently, the trial court erred in granting summary judgment upon all causes of action alleged.

We reverse the final summary judgment and remand the cause to the trial court.

Per Curiam