

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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TINA MIHACSI,

Plaintiff-Appellant,

v

WILLIAM KARNER,

Defendant/Cross-Plaintiff/Appellee,

and

ORION REALTY, INC. d/b/a CENTURY 21 REAL  
ESTATE 217,

Defendant/Cross-Defendant,

and

BRIAN C. MEIXELL,

Defendant.

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Before: Hoekstra, P.J., and Jansen and Gage, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting defendant William Karner's<sup>1</sup> motion for summary disposition pursuant to MCR 2.116(C)(10), and from a subsequent order denying her motion for reconsideration and recusal. We affirm.

This lawsuit arises out of a purchase agreement entered into between plaintiff and defendant on October 19, 1993. Plaintiff agreed to purchase defendant's property for \$110,000 as a cash sale. The purchase agreement specifically provides that payment was to be made in cash or certified check. However, under "additional conditions" on the purchase agreement, it is simply stated "Subject to

approval of financing.” The purchase agreement also contained a clause

that the purchaser would complete the sale within ten days after delivery of the commitment of title insurance. The commitment of title insurance was issued on November 16, 1993, and a closing was scheduled for November 30, 1993. Plaintiff failed to perform on the date of closing. On March 17, 1994, defendant sold the property to Brian C. Meixell. Plaintiff brought suit against defendant for breach of the purchase agreement. The trial court subsequently granted summary disposition in favor of defendant, ruling that plaintiff had failed to obtain financing within a reasonable time after entering into the purchase agreement.

Plaintiff argues that the trial court erred in granting summary disposition when it ruled that she failed to obtain financing within a reasonable time as a matter of law.

When no time frame for performance appears on the face of an agreement, the law will presume a reasonable time for performance. *Opdyke Investment Co v Norris Grain Co*, 413 Mich 354, 368; 320 NW2d 836 (1982). Where the facts are undisputed, the question of what constitutes a reasonable time is a question of law for the court to decide. *S C Gray, Inc, v Ford Motor Co*, 92 Mich App 789, 817; 286 NW2d 34 (1979). Here, the purchase agreement was entered into on October 19, 1993. Plaintiff claimed that she could not obtain financing because defendant continually blocked her attempts to get an appraisal of the property which was necessary to get approval of financing. However, plaintiff testified at her deposition that she did not do anything to obtain financing. Rather, her ex-husband, Mark Mihacsi, was making all the arrangements. Mark Mihacsi testified that he did not attempt to arrange for an appraisal of the property until mid-February, 1994, approximately four months after the purchase agreement had been signed. Furthermore, defendant conveyed to plaintiff on several occasions his interest in closing the deal in early December, 1993. Reviewing the evidence submitted by the parties and considering the language of the purchase agreement that plaintiff agreed to complete the sale within ten days after delivery of the title insurance, we find the facts to be undisputed that plaintiff waited approximately four months after signing the purchase agreement to attempt to obtain an appraisal of the property and that such was an unreasonable amount of time as a matter of law.

Next, plaintiff argues that the trial court granted summary disposition while discovery was still taking place. Summary disposition is usually premature if discovery of a disputed issue is incomplete. *Kelly-Nevils v Detroit Receiving Hospital*, 207 Mich App 410, 421; 526 NW2d 15 (1994). However, it may be appropriate if further discovery does not stand a fair chance of uncovering factual support for the opposing party's position. *Id.* When plaintiff filed her motion for reconsideration, defendant presented deposition testimony from plaintiff and Mark Mihacsi that an appraisal had not been attempted until mid-February, 1994. Moreover, plaintiff presented no evidence that further discovery could have established that a different time frame existed such that she attempted to obtain financing within a reasonable time. Therefore, the trial court properly granted summary disposition in favor of defendant.

Finally, plaintiff argues that the trial court erred in denying her motion for recusal. Plaintiff's claim that the trial court was not impartial and prejudged the case, see MCR

2.003(B)(1), is not supported by the record. We find no error in the trial court's decision to deny plaintiff's motion for recusal.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Kathleen Jansen

/s/ Hilda R. Gage

<sup>1</sup> In this opinion, "defendant" will refer solely to defendant-appellee William Karner because he is the only defendant involved in this appeal.