

STATE OF MICHIGAN
COURT OF APPEALS

JOHN S. HADDAD, LIBBI HADDAD, and
HADLEY MARKETING SPECIALISTS, INC.,

UNPUBLISHED
September 28, 2004

Plaintiffs-Appellants,

v

SEYMOUR GOODMAN, ESTATE OF LILLIAN
GOODMAN, JASON ENTERPRISES, INC.,
PAUL SHAMO and PAUL SHAMO
REVOCABLE LIVING TRUST,

No. 247882
Wayne Circuit Court
LC No. 02-242344-NO

Defendants-Appellees.

Before: Borrello, P.J., and Murray and Hood, JJ.

MEMORANDUM.

Plaintiffs appeal as of right the order granting defendants' motion for summary disposition on statute of limitations grounds. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This Court reviews the grant of summary disposition de novo. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). A party may support a motion under MCR 2.116(C)(7) with affidavits, depositions, admissions, or other documentary evidence. If such material is submitted, it must be considered. *Id.* at 119. The contents of the complaint are accepted as true, unless contradicted by documentation submitted by the movant. *Id.*

The essence of plaintiffs' complaint is that defendants never paid the sum due on purchase contracts for a business and associated real estate. While plaintiffs submitted affidavits supporting this assertion, defendants provided the amended purchase agreement, stating that cash was to be paid at closing, and the warranty deed, indicating that the property was transferred on July 1, 1991, for \$200,000. The trial court was entitled to rely on the documentation, rather than the allegations in the complaint, in concluding that any breach of the contract occurred in 1991, and that the cause of action was barred by the statute of limitations. *Maiden, supra*.

Summary disposition may be appropriate if discovery does not stand a reasonable chance of uncovering factual support for the opposing party's position. *Village of Dimondale v Grable*, 240 Mich App 553, 566; 618 NW2d 23 (2000). There is no indication how discovery could produce evidence that would defeat the statute of limitations defense. Similarly, although

plaintiffs asked to amend their complaint in the motion for reconsideration, there is no indication how an amendment could avoid the statute of limitations. Where an amendment would be futile, leave to amend the complaint is properly denied. *Ben P Fyke & Sons, Inc v Gunter Co*, 390 Mich 649, 659; 213 NW2d 134 (1973).

While plaintiffs assert that the court erred in dismissing the case in its entirety, all of their claims are premised on breach of contract, and they have not identified a cause of action with a different limitations period.

Affirmed.

/s/ Stephen L. Borrello
/s/ Christopher M. Murray
/s/ Karen M. Fort Hood