

STATE OF MICHIGAN  
COURT OF APPEALS

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SPRINGWOOD GROUP, INC., d/b/a CENTURY  
21 ADVANTAGE,

UNPUBLISHED  
September 22, 1998

Plaintiff-Appellant,

v

No. 203361  
Oakland Circuit Court  
LC No. 96-533892 CK

ORION HOMES, INC. and MICHAEL J. LAMB,

Defendants-Appellees.

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Before: Holbrook, Jr., P.J., and Wahls and Cavanagh, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendants' motion for summary disposition in this breach of contract action. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This action was brought by Marie Franklin, as assignee of plaintiff's claims for real estate commissions alleged to be owed by defendants. On January 31, 1995, plaintiff executed twelve exclusive right to sell contracts for homes to be constructed by defendant Orion Homes in Troy. Although the agreements were to expire on December 1, 1996, defendant Orion terminated the contracts in June 1995. Plaintiff signed a written assignment of its claims to Franklin on October 18, 1996.

A contract of a personal nature, contemplating personal association and personal services, is not assignable. *Woods v Johnson*, 266 Mich 172, 175; 253 NW 257 (1934). An exclusive listing for the sale of real estate is a personal service contract, which cannot be assigned by the agent without the principal's consent. *Menenberg v Carl R Sams Realty Co, Inc*, 337 Mich 143, 149; 59 NW2d 125 (1953).

Franklin argues that this principle should not apply where she is merely seeking to obtain benefits under the contract after performance has been rendered. However, the complaint asserts that plaintiff has continued to list the properties as required by the contract, and that plaintiff is ready, willing, and able to complete all obligations under the contract. The continued rendering of services was

contemplated by the complaint, and not just the receipt of payment. The trial court did not err in granting summary disposition where a personal services contract may not be assigned.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Myron H. Wahls

/s/ Mark J. Cavanagh