

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF MCCORMICK) Civil Action No. 2011-CP-34-00035

Samuel L. McPherson, as Presiding Elder)
of the Abbeville-Greenwood District of)
the African Methodist Episcopal Church,)
Plaintiff,)

vs.)

Henry Banks, Mary Robinson, Delois)
Phillips, Naomi Mattison, and Frank)
Mattison,)
Defendants.)

ORDER

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SC Court of Appeals

THIS MATTER IS BEFORE THE COURT on various motions. The court held a hearing on this matter on May 22, 2013 in McCormick. Present were Randall R. Williams, Esquire, for Plaintiff and Marvin R. Watson, Esquire, for Defendants. After reviewing the parties' evidence and arguments, I find as follows:

I. FACTS

Many facts in this case are not in dispute. The Rockford Church is a small church located in Mt. Carmel, South Carolina. For at least the past 50 years, the Rockford Church has been affiliated with the national African Methodist Episcopal Church (the AME church). The AME church is a national hierarchical church connected to numerous local churches. Local churches are organized into districts, each of which is supervised by a presiding elder. Plaintiff Samuel McPherson is the Presiding Elder of the Abbeville-Greenwood District of the AME church. During its affiliation with the AME church, Rockford Church was a member of the Abbeville Greenwood District. The by-laws of the AME church are expressed in the Book of Discipline of the African Methodist Episcopal Church (the Book of Discipline).

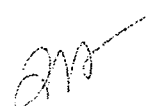
In 2010, the congregation of the Rockford Church became disenchanted with the AME church's management of its local churches. Specifically, the Rockford Church alleges it could

not afford to continue paying membership dues to the AME church. In February 2011, the officers of Rockford Church informed their minister that they wished to end Rockford Church's affiliation with the AME church. The minister informed Plaintiff that members of the church, some of whom are named as Defendants¹ in this suit, had withdrawn from the AME church. Plaintiff then filed this suit in March 2011 seeking a declaration that all property of the Rockford Church was held in trust for the benefit of the AME church. Defendants answered and asserted counterclaims of defamation, negligent misrepresentation, breach of fiduciary duty, and intention infliction of emotional distress. The court granted Plaintiff's request for a temporary injunction preventing Defendants from disposing of church property. The procedural history of this case is somewhat complicated by the multiple issues arising from this injunction; however, the parties seem to have resolved the disputes over most of the smaller items of personal property. At this time, the claims in this suit revolve around three distinct items of property: two parcels of real estate and a bank account.

The remaining disputed property is presently titled in the name of the Rockford Church. The first parcel of real estate is a four and one half acres tract (the 4.5 acre tract) upon which sits the Rockford Church sanctuary. The other parcel is a thirteen and one-tenth acres tract (the 13.1 acre tract) adjacent to the 4.5 acre tract. Finally, the bank account was maintained at First Citizens Bank in Columbia, South Carolina. The funds from that account have been placed in a certificate of deposit that is in the control of the McCormick County Clerk of Court. According to the members of the Rockford Church, these funds were raised over the years in a variety of campaigns for improving the sanctuary located on the 4.5 acre tract.

The parties have engaged in extensive discovery in this case. The record before the court contains numerous submissions, including property deeds, bank records, affidavits from named and unnamed defendants, affidavits from Plaintiff, depositions, and a copy of pertinent parts of the Book of Discipline. The court currently has before it numerous motions to strike, motions to dismiss, motions for summary judgment, and motions to dismiss that have been converted to motions for summary judgment by the submission of matters outside the pleadings. However, this case ultimately involves a question of law as to who holds legal and equitable title to the local church property. Because the record has been sufficiently developed, the court is

¹ Named defendants appear to be trustees or officers of Rockford Church.



comfortable deciding the motions for summary judgment at this time, which will render all other pending motions moot.

II. STANDARD OF REVIEW

“The purpose of summary judgment is to expedite the disposition of cases which do not require the services of a fact finder.” Bennett v. Investors Title Ins. Co., 370 S.C. 561, 569-70, 635 S.E.2d 660, 665 (Ct. App. 2006) (citations omitted). A trial court should grant a motion for summary judgment when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRPC. The moving party has the burden of clearly establishing the absence of a genuine issue of material fact. Bennett, 370 S.C. at 569, 635 S.E.2d at 664-65 (citing Jones v. State Farm Mut. Auto. Ins. Co., 364 S.C. 222, 228, 612 S.E.2d 719, 722 (Ct. App. 2005)). Once the moving party meets the initial burden, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial. Id., 635 S.E.2d at 665. “If triable issues exist, those issues must go the jury.” Id. at 568, 635 S.E.2d at 664 (citing Mulherin-Howell v. Cobb, 362 S.C. 588, 595, 608 S.E.2d 587, 591 (Ct. App. 2005)). “However, when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted.” Id. at 569, 635 S.E.2d at 664 (citations omitted).

III. LAW/ANALYSIS

A. Ownership of Property

The parties have raised cross-motions for summary judgment regarding ownership of the local church property. Plaintiff contends that the Rockford Church was a hierarchical church and that its trustees and members are bound by the tenants and provisions contained in the Book of Discipline. These provisions dictate that all local church property is held in trust for the benefit of the AME church regardless of how the property is titled or deeded. Defendants agree that Rockford Church was a hierarchical church connected to the AME church. However, they contend that this court does not have jurisdiction to hear this suit because it is essentially a dispute over church governance, and a civil court cannot interfere in the internal affairs of a church. In the alternative, Defendants contend that all church property is titled to Rockford Church under state property law and that the Book of Discipline is not applicable. For the

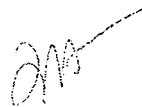
reasons that follow, the court finds that Rockford Church is the legal owner of the 4.5 acre tract and the bank account, and that the AME church is the equitable owner of the 13.1 acre tract.

1. Neutral Principles of Law

First, the court must have jurisdiction to hear this dispute. Generally, courts may not attempt to resolve disputes concerning “religious law, principle, doctrine, discipline, custom, or administration.” Pearson v. Church of God, 325 S.C. 45, 52, 478 S.E.2d 849, 853 (1996). Where resolution of such disputes “cannot be made without extensive inquiry into religious law and polity,” the First Amendment forbids a civil court from hearing the dispute. Id. at 49, 478 S.E.2d at 851. However, “courts cannot avoid adjudicating rights growing out of civil law” such as disputes involving contract or property law. Id. at 52, 478 S.E.2d at 853. Thus, “where a civil court can completely resolve a church dispute on neutral principles of law, the First Amendment commands it to do so.” All Saints Parish Waccamaw v. Protestant Episcopal Church in Diocese of S.C., 385 S.C. 428, 445, 685 S.E.2d 163, 172 (2009). Applying the above principles to this case, the court finds it may exercise jurisdiction over this matter without violating the First Amendment. This case asks the court to decide whether state property law recognizes a trust in favor of the AME church. A decision on this issue can be rendered with “very little inquiry into religious law.” Pearson, 325 S.C. at 53, 478 S.E.2d at 853. Rather, the court can resolve the dispute by reference to “objective, well-established concepts of trust and property law[.]” All Saints Parish Waccamaw, 385 S.C. at 444, 685 S.E.2d at 172. See also Roland F. Chase, Annotation, What Constitutes “Neutral Principles” Applicable To Property Disputes In Hierarchical Churches – “Formal Title” Doctrine, 52 A.L.R.3d 324, §4[b] (1973) (collection of cases resolving property disputes by reference to “relevant deeds and other documents affecting title”). Therefore, the court has subject matter jurisdiction over this matter.

2. Real Property

The court finds that the 4.5 acre tract is owned by the Rockford Church, and that the AME church has no legal or equitable interest therein. This tract was created by the merger of several smaller parcels of land. The first parcel was purchased by the Rockford Church in 1898, before the creation of McCormick County out of parts of Abbeville, Edgefield, and Greenwood counties. The deed to this parcel is maintained by the Abbeville County Clerk of Court. It purports to convey to “Trustees of Rockford African Methodist Episcopal Church of Abbeville County” a parcel containing “one half acre more or less[.]” The second parcel was purchased by




the Rockford Church in 1914. This deed is also held in Abbeville County and purports to transfer to "Trustees of Rockford Church" a parcel consisting of "One acre and five rods, more or less[.]" The third parcel, consisting of "four acres, more or less," was previously owned by the trustees of the Rockford School. The Rockford Church allegedly purchased this parcel from the trustees of the Rockford School sometime prior to 1929; however, no deed was ever recorded for this parcel. The Trustees of Rockford African Methodist Episcopal Church initiated a quiet title action in 1999 concerning all the church's property holdings. The Special Referee's Order and the resulting deed conveyed 4.5 acres to the "Trustees of the Rockford African Methodist Episcopal Church."²

None of the deeds in the chain of title for the 4.5 acre tract create a trust in favor of the AME church. "To prove the existence of a trust, the following elements must be shown: (1) a declaration creating the trust, (2) a trust res, and (3) designated beneficiaries. Furthermore, the trust declaration must be in writing when the trust property includes realty." Foster v. Foster, 384 S.C. 380, 384, 682 S.E.2d 312, 314 (Ct. App. 2009) aff'd, 393 S.C. 95, 711 S.E.2d 878 (2011) (citing Whetstone v. Whetstone, 309 S.C. 227, 420 S.E.2d 877 (Ct. App. 1992)). Here, there is no declaration in the record indicating the property is held for the benefit of the AME church. There is also no writing evidencing an intent to place the real property in trust for the AME church. These deeds clearly indicate that the real property was conveyed to the trustees of the Rockford Church, with no mention of the AME church. Therefore, there is no express trust in favor of the AME church. Furthermore, the fact that the Rockford Church assented to connect with the AME church and abide by the Book of Discipline does not equate to the creation of a trust in favor of the AME church. See All Saints Parish Waccamaw, 385 S.C. at 449, 685 S.E.2d at 174 (holding that a national church's governing cannons cannot have any legal effect on title to the local church's property absent an express declaration of trust or transfer of property). Therefore, Rockford Church holds legal and equitable title to the 4.5 acre tract.³

² The court notes that this parcel has since been transferred to "Rockford Church" in 2010. However, that transfer was clearly made with the intention of avoiding any claim of title by the AME church. Therefore, the court has not considered the 2010 deed in resolving the dispute over ownership of this tract.

³ The court is also persuaded by the fact that the trustees placed a trust provision in a deed to the 13.1 acre tract that they acquired a year earlier. Had the trustees intended to hold the 4.5 acres in trust, they could have likewise included a trust provision in the 1999 deed.



On the other hand, the AME church holds equitable title to the 13.1 acre tract. The Trustees for the Rockford African Methodist Episcopal Church acquired this tract in 1998. In the deed conveying the tract to the trustees, the grantor purports to convey the tract to the trustees "in Trust for the African Methodist Episcopal Church, Inc." This express language in the deed is sufficient to create a trust under state law because it is in writing and 1) declares to create a trust, (2) includes trust res in the form of real property, and (3) designates the AME church as beneficiary. See Foster, 384 S.C. at 384, 682 S.E.2d at 314. Therefore, the AME church is the beneficiary of an express trust, and holds equitable title to the 13.1 acre tract.⁴

3. Bank Account

The Rockford Church is the legal and equitable owner of the funds currently on deposit with the McCormick County Clerk of Court. Prior to this litigation, the funds were held in a bank account at First Citizens Bank in the name of "Rockford Church" with no reference to the AME church on the account. Members of the Rockford Church have overwhelmingly indicated that the funds in the bank account were *inter vivos* gifts to the church for the purpose of repairing the sanctuary. These funds were clearly gifts to the Rockford Church. See Barnwell v. Barnwell, 323 S.C. 548, 556, 476 S.E.2d 492, 497 (Ct. App. 1996) ("If a donor intends to confer on another ownership of his property, and if he proceeds so far as to do it, then the gift is complete." (quoting Meverson v. Malinow, 231 S.C. 14, 25-26, 97 S.E.2d 88, 94 (1957))). Thus, the congregation intended to vest an irrevocable title to the funds in the name of the Rockford Church, not in the name of the AME church. Therefore, the funds belong to the Rockford Church.⁵

B. Defendants' Counter Claims

Finally, the court finds that Defendants' counter claims should be dismissed. The claims of defamation, negligent misrepresentation, breach of fiduciary duty, and intention infliction of emotional distress essentially arise from Plaintiff's management of church funds and from statements regarding the Defendants' membership in the Rockford Church or the AME church.

⁴ Again, the court notes that this tract was transferred to "Rockford Church" in 2010 in anticipation of this litigation. This transfer would not be sufficient to terminate the trust. To the extent this transfer was a breach of trust by the trustees, the AME church at least holds a constructive trust in the land. Therefore, equitable title remains in the AME church.

⁵ The court could also find that the donations of funds were intended to create a trust in favor of the Rockford Church sanctuary. As such, equitable title to the funds would be with the Rockford Church as owner of the 4.5 acre tract upon which the sanctuary sits.

The court finds that the resolution of these claims would necessarily require the court to inquire into the internal administration of the Rockford Church and the AME church. The court cannot make a determination as to the truth or falsity of Plaintiff's statements regarding membership in the church because that is essentially an ecclesiastical decision. See Bowen v. Green, 275 S.C. 431, 434, 272 S.E.2d 433, 434 (1980) ("Generally, a civil court has no authority to intervene in cases involving expulsion from church membership where there is no question of an invasion of a civil, property or contract right." (citing T. W. Cousens, Annotation, Suspension Or Expulsion From Church Or Religious Society And The Remedies Therefor, 20 A.L.R.2d 421 (1952))). Likewise, the alleged mismanagement of funds is not reviewable because it is essentially an allegation that Plaintiff abused his power as elder of the AME church. See Bell v. Presbyterian Church (U.S.A.), 126 F.3d 328, 332-33 (4th Cir. 1997) (holding that a decision on how a church expend funds "falls within the ecclesiastical sphere that the First Amendment protects from civil court intervention"). The court cannot substitute its judgment as to the management of local churches for that of the AME church. Therefore, Defendants' claims of defamation, negligent misrepresentation, breach of fiduciary duty, and intention infliction of emotional distress must be dismissed for lack of jurisdiction.

IV. CONCLUSION

The right to worship in whatever manner one desires is one of the most personal and fundamental individual rights protected by our Constitution. While the court cannot answer difficult ecclesiastical questions of church administration, it has a solemn duty to ensure the resolution of state laws property disputes even when they involve opposing sides of a church body.⁶ In this case, the court is constrained by the documents constituting the chain of title to these parcels of land. Plaintiff and Defendants had ample opportunity to ensure they utilized state law to carry out the directions of the Book of Discipline. In failing to do so, they are bound by our secular property laws.⁷

⁶ See Jones v. Wolf, 443 U.S. 595, 602 (1979) ("The State has an obvious and legitimate interest in the peaceful resolution of property disputes, and in providing a civil forum where the ownership of church property can be determined conclusively." (citing Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Memorial Presbyterian Church, 393 U.S. 440, 445 (1969))).

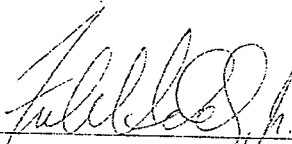
⁷ See Presbyterian Church in U.S., 393 U.S. at 449 (encouraging churches to "structure relationships involving church property so as not to require the civil courts to resolve ecclesiastical questions").

THEREFORE, IT IS ORDERED THAT title to the 4.5 acre tract, and all the improvements appurtenant thereto, bearing McCormick County tax map number 024-05-01-010, shall be awarded to the trustees of the Rockford Church.

IT IS FURTHER ORDERED THAT title to the 13.1 acre tract, bearing McCormick County tax map number 023-00-00-016, shall be awarded to the trustees of the Rockford Church to be held in trust for the national African American Methodist Episcopal Church, Inc. Plaintiff may petition the court for judicial sale of this tract should the AME church determine that the Rockford Church is no longer a connected church.

IT IS FURTHER ORDERED THAT the funds held in deposit by the McCormick Clerk of Court shall be remanded to the possession of the trustees of the Rockford Church.

IT IS SO ORDERED.



Frank R. Addy, Jr.
Circuit Court Judge

June 21, 2013
Greenwood, South Carolina