

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

RECEIVED

CASE NO. 2013 CP 36-00645

APR 14 2015

St. Paul Independent Church Pomaria, Inc.

AME Church, Inc., et al

SC Court of Appeals

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Special Referee

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 40(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Special Referee

Judge Code

Date

March 30 2015

For Clerk of Court Office Use Only

FILED
NEWBERRY COUNTY
2015 APR 7 AM 10:33
JACKIE S. BOBER
CLERK OF COURT
TRIBUNAL

This judgment was entered on the 7th day of April 20 15 and a copy mailed first class or placed in the appropriate attorney's box on this 9th day of April 20 15 to attorneys of record or to parties (when appearing pro se) as follows:

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Jackie Bowers (mum)
CLERK OF COURT

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Pomaria, SC 29126

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

St. Paul Independent Church Pomaria, Inc.,

Plaintiff,

vs.

African Methodist Episcopal Church, Inc., St. Paul A.M.E. Church, Inc., Elder Joseph Postell (in his capacity as an Elder of the AME Church, Inc.),

Defendants/Third-Party Plaintiffs,

vs.

Shirley Wise, Lisa Houseal, and Thomas Flemon, in their capacities as former Trustees of St. Paul A.M.E. Church Pomaria, Inc.,

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

C.A. No. 2013-CP-36-00645

RECEIVED

APR 14 2015

SC Court of Appeals

**ORDER GRANTING DEFENDANT
ST. PAUL A.M.E. CHURCH'S
MOTION FOR
SUMMARY JUDGMENT**

FILED
NEWBERRY COUNTY
2015 APR 7 AM 10 33
JACKIE S. BOWENS
CLERK OF COURT

BACKGROUND

This matter came before the Court upon Plaintiff and Defendants/Third-Party Plaintiffs opposing Motions for Summary Judgment. Plaintiff filed this action seeking a declaration that it was the owner of certain real property in Newberry County to the exclusion of Defendants. Defendant St. Paul A.M.E. Church filed a counterclaim seeking a declaration that it was the owner of the same real property claimed by Plaintiff. Plaintiff submitted a Memorandum on December 5, 2014, and Defendants submitted a responsive Memorandum on January 9, 2015. Finding no genuine issue of material fact and based upon the following, this Court grants Defendant St. Paul A.M.E. Church's Motion for Summary Judgment.

FACTS

St. Paul A.M.E. Church was established in or around 1883, and the first church building was established in 1897. In a deed dated and recorded March 14, 1885, James C. Hope conveyed title to the property, now located in Newberry County at 1945 Hope Station Road, Pomaria, South Carolina, 29126 (hereinafter "subject property"), to the "Trustees of St. Paul A.M.E. Church." St. Paul A.M.E. Church has maintained an affiliation with the national African Methodist Episcopal Church, Inc., ("A.M.E.") for more than 100 years, as evidenced in the admissions and testimony of Plaintiff's witnesses. For example, former St. Paul A.M.E. Trustees Shirley Wise and Thomas Flemon testified that St. Paul A.M.E. Church obtains its pastors through assignment by the national A.M.E. Church, Inc. Additionally, Plaintiff's 30(b)(6) deponent, Frederick Houseal, testified that St. Paul A.M.E. Church Trustees became Trustees "through the A.M.E. Church" and were governed by the A.M.E. Church.

In 2013, St. Paul A.M.E. Church had five (5) Trustees: Shirley Wise, Thomas Flemon, Lisa Houseal, Laura Flemon, and Derrick Flemon. On or about November 14, 2013, several persons who were in the process of organizing Plaintiff St. Paul Independent Church held a meeting. Of the persons present during the meeting, some were members of St. Paul A.M.E. Church and some were not. Among those in attendance were the following Trustees of St. Paul A.M.E. Church: Shirley Wise, Thomas Flemon, and Lisa Houseal. During the meeting, eleven out of sixteen persons present voted to disaffiliate from the A.M.E. Church. The organizers of the November 14 meeting developed a list of twenty-six persons identified as persons wishing to leave St. Paul A.M.E. Church to join St. Paul Independent Church, including Shirley Wise, Thomas Flemon, and Lisa Houseal.

By certified letter dated, November 15, 2013, Plaintiff notified the leadership and governing persons of St. Paul A.M.E. Church of the decision to disaffiliate. Included among the

persons listed as joining in the disaffiliation were former St. Paul A.M.E. Trustees, Shirley Wise, Thomas Flemon, and Lisa Houseal. Following this notice, Plaintiff took additional steps to complete its legal organization. St. Paul Independent Church was incorporated with the South Carolina Secretary of State on November 26, 2013. On or about December 5, 2013, Dorothy Houseal, a remaining member and trustee of St. Paul A.M.E. Church noticed that the St. Paul A.M.E. sign had been changed by having the letters A.M.E. and the pastor's name painted over. On December 6, 2013, the former Trustees of St. Paul A.M.E. Church, Shirley Wise, Thomas Flemon, and Lisa Houseal, signed a quitclaim deed purporting to convey the property of St. Paul A.M.E. Church to "St. Paul Independent Church." The following Sunday, December 8, 2013, St. Paul Independent Church Pomaria members assumed complete control of the church property and contacted law enforcement seeking the removal of the remaining members of St. Paul A.M.E. Church and Elder Postell from the subject property.

On December 11, 2013, Plaintiff filed a Motion for a Temporary Restraining Order seeking to prohibit Defendants "from taking adverse action which would interfere with St. Paul Church's real or personal property rights or interests, as well as its lawful and legal business operations and/or the conduct of its worship services." The Court granted Plaintiff's motion on December 23, 2013 and Plaintiff filed an Amended Summons and Complaint. Defendants filed a Motion for Summary Judgment on September 30, 2014, and Plaintiff subsequently filed a Motion for Summary Judgment on or about October 27, 2014. This Court heard oral arguments on both summary judgment motions on November 5, 2014.

STANDARD OF REVIEW

This court must resolve this church dispute pursuant to the "neutral principles of law" formulation articulated in the South Carolina Supreme Court's decisions in All Saints Parish Waccamaw v. Protestant Episcopal Church in the Diocese of South Carolina, 385 S.C. 428, 685

S.E.2d 163 (2009) and Pearson v. Church of God, 325 S.C. 45, 478 S.E.2d 849 (1996). South Carolina civil courts “have jurisdiction as to civil, contract and property rights which are involved in a church controversy, even though they have no jurisdiction of ecclesiastical questions and controversies.” Pearson, 325 S.C., at 51 (quoting Bramlett v. Young, 229 S.C. 519, 93 S.E.2d 873, (1956)). Therefore, the neutral principles of law approach expressly permits the application of property, corporate, and other forms of law to church disputes. All Saints, 385 S.C. at 444.

The Court must apply property law to determine whether the persons purporting to convey real property titled in the name of the “Trustees of St Paul A.M.E. Church” possessed the requisite authority to convey the subject property to Plaintiff. Id.

CONCLUSIONS OF LAW

The 1885 deed does not declare a use for the property or impose any duties on the “Trustees of St. Paul A.M.E. Church.” In the absence of a declared, or clearly implied, trust, the trustees of a church hold the property solely for the congregation whose officers they are at the time of the conveyance. Brock v. Bennett, 313 S.C. 513, 518, 443 S.E.2d 409, 412 (S.C. App. 1994). A deed to a person in the capacity as a trustee does not purport to create a property interest in that person, except to the extent he, as trustee, held legal title for the church and would benefit as a member of the church. Id. Once a trustee abandons his membership in a church, he likewise forfeits his right to remain a trustee of the church. Id. at 319 (finding a former church trustee forfeited his interest in the church’s real property when he abandoned his membership in the church and was not acting as trustee). Accordingly, Thomas Flemon, Shirley Wise, and Lisa Houseal were not trustees of St. Paul A.M.E. Church on December 6, 2013, the date they executed the quitclaim deed purportedly transferring title to the subject property from the Trustees of St. Paul A.M.E. Church to St. Paul Independent Church.

When requesting a Temporary Restraining Order, Plaintiff submitted the following evidence to the Court:

- (a) Certified letter dated, November 15, 2013, to A.M.E. Church leadership noticing the St. Paul Church's congregation and *officers'* disaffiliation effective November 24, 2013, which included former Trustees Thomas Flemon, Lisa Houseal, and Shirley Wise; (Emphasis added?)
- (b) Meeting Minutes from November 14, 2013, which references the affirmation of former Trustees Thomas Flemon, Lisa Houseal, and Shirley Wise in the decision to disaffiliate;
- (c) List of signatures of individuals purporting to withdraw from St. Paul A.M.E. Church, including former Trustees, Shirley Wise, Lisa Houseal and Thomas Flemon.

(See Motion for Temporary Restraining Order, filed December 23, 2013). Thereafter, on December 23, 2013, Plaintiff filed its Amended Summons and Complaint which stated:

On November 14, 2013, at a duly called meeting of the St. Paul AME Church, eleven out of sixteen members present motion to separate from affiliation with the AME Church and 21 out of 24 members signed a petition to separate from the A.M.E. affiliation. Former Trustees Thomas Flemon, Lisa Houseal, and Shirley Wise were participants in the November 14, 2013 meeting and in the signing of the petition.

(Amended Summons and Complaint, ¶ 6). Plaintiff's Memorandum of Law in Support of the Motion for Preliminary Injunction also included the following admissions:

At a duly called regular meeting of St. Paul Church held on November 14, 2013, eleven out of sixteen members present at the meeting voted in favor of terminating affiliation with the A.M.E. Church, and 21 out of 24 of St. Paul Church's members and officers, including Trustees Shirley Wise, Thomas Flemming [sic] and Lisa Houseal, signed a petition to terminate St. Paul's affiliation with the A.M.E. Church . . . By certified letter on November 15, 2013 and by hand delivery on November 24, 2013, the officers and congregation of St. Paul Church informed the A.M.E. Church of the congregation's decision to disaffiliate and that the services of any A.M.E. pastor, elder, bishop, or the like would no longer be needed.

(See p. 2)

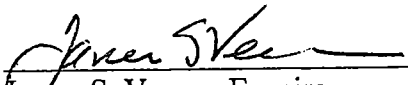
In these court documents, Plaintiff admitted that former Trustees Thomas Flemon, Lisa Houseal, and Shirley Wise voted to disaffiliate from the A.M.E. Church at the November 14, 2013 meeting and signed the petition to disaffiliate. As such, there were no actions taken by former St. Paul A.M.E. Trustees Thomas Flemon, Lisa Houseal, and Shirley Wise in furtherance of the interests St. Paul A.M.E. Church after the November 14, 2013 meeting.

Although each of these former St. Paul A.M.E. trustees asserted in subsequent deposition testimony that they continued to attend St. Paul A.M.E. Church services in December 2013, the record clearly shows that the disaffiliation of these former trustees of St. Paul A.M.E. Church divested them of any further authority to act as trustees. I therefore find each of the former St. Paul A.M.E. trustees who executed the deed lacked the requisite legal authority to take any action in their capacity as trustee of St. Paul A.M.E. Church, including alienating church property titled in their name. Thus, the transfer of property initiated by them was void or invalid.

Furthermore, the conveyance to St. Paul Independent Church was by quitclaim deed, which means that the parties signing the deed conveyed only the interests they had in the property. Bennett v. Investors Title Ins. Co., 370 S.C. 561, 574, 635 S.E.2d 660, 667 (S.C. Ct. App. 2006) (“A quitclaim deed . . . [conveys] only the right, title, and interest of the grantor.”). Because Shirley Wise, Lisa Houseal, and Thomas Flemon ceased being members and trustees of St. Paul A.M.E. Church, I find they retained no interest in the subject property to convey to St. Paul Independent Church. Accordingly, the attempt to convey the property by quitclaim deed is invalid and must be set aside.

For the aforementioned reasons, this Court finds that there is no genuine issue of material fact and Defendant St. Paul A.M.E. Church’s Motion for Summary Judgment is hereby granted. The Court orders that:

- (1) all property that is the subject of this litigation, real or personal, is fully and exclusively owned by the Trustees of St. Paul A.M.E. Church; and
- (2) the deed dated and recorded on December 6, 2013, in Deed Book 1733 at page 25, be stricken from the public records.


James S. Verner, Esquire
Special Referee

March 30th, 2015
Newberry, South Carolina