

EDGEFIELD COUNTY
CLERK OF COURT
CHARLES L. REEL
STATE OF SOUTH CAROLINA
COUNTY OF EDGEFIELD
2017 MAR 28 AM 9:29

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT

CASE NO.: 2015-CP-19-0068

Moores Church,

Plaintiff,

v.

African Methodist Episcopal Church, Inc.,
Bishop Elder Franklin Norris, Elder Rev.
Rosalyn Coleman, and Dr. Vincent Johnson,

Defendants.

**ORDER GRANTING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

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SC Court of Appeals

BACKGROUND

This matter came before the Court on November 10, 2016, upon Plaintiff and Defendants' opposing Motions for Summary Judgment. Plaintiff filed this action on February 27, 2015, against Defendants seeking injunctive relief and a declaratory judgment from the Court that Moores Church is the exclusive owner of certain real and personal property in dispute and that the African Methodist Episcopal Church, Inc., (hereinafter "A.M.E. Church") lacks any interest in the property. Defendants answered and counterclaimed on April 2, 2015, seeking a declaratory judgment that: (1) the property in dispute is fully and exclusively owned by Moores A.M.E. Church pursuant to a deed and by adverse possession; and, (2) *The Doctrine and Discipline of the African Methodist Episcopal Church* (hereinafter "*The Discipline*") was and is the sole governing authority for Moores A.M.E. Church and that the property in dispute was not transferred pursuant to the required procedures stated therein.

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Subsequently, on April 6, 2015, Defendants filed a motion to join Moores A.M.E. Church as a party Defendant to this action. Following a hearing on July 22, 2015, the Court denied Defendants' Motion for Joinder of Moores A.M.E Church, finding that "the parties who are designated seem to include all the parties necessary to resolve this dispute and determine if the property in question belongs to an A.M.E. Church (or the A.M.E. Church) or whether it belongs to a local association of members who have terminated their affiliation with the A.M.E. Church." This order was not appealed by either party.

Defendants filed a Motion for Summary Judgment on March 3, 2016. Plaintiff filed a cross-motion for summary judgment on July 21, 2016. Each party submitted a supporting Memorandum. Based upon a review of the motions, memoranda, pleadings, affidavits and deposition testimony, this Court finds no genuine issue of material fact and, for the reasons below, grants Defendants' Motion for Summary Judgment. Plaintiff submitted revised Affidavits eight days after the Summary Judgment hearing; however, there was no substantive change in the facts as presented by Plaintiff. Further, SCRCP Rule 6(d) requires that when a motion is supported by affidavit, the affidavit must be served with the motion at least ten (10) days before the hearing. Rule 6, SCRCP. Also, any additional or opposing affidavits must be served no later than two (2) days before the hearing. Id.; see also Rule 56(c), SCRCP. The trial court, in its discretion, may exclude untimely affidavits. Black v. Lexington School Dist. No. 2, 327 S.C. 55, 488 S.E.2d 327 (1997). Accordingly, this Court excludes the untimely affidavits filed by Plaintiff and did not consider the Affidavits in making its decision.

FINDINGS OF FACT

Moores A.M.E. Church is a religious organization located in Edgefield County and affiliated with the national A.M.E. Church connection since the early 1900s. In a deed dated

August 26, 1980, and recorded August 28, 1980 (hereinafter "Deed"), Mr. Warren Chinn conveyed a 0.44 acre tract of land located at 236 Moores Drive, Edgefield, South Carolina, 29824, to "Moores A.M.E. Church." Moores A.M.E Church is also in possession of a 3.69 acre tract of land for which no deed of record has been identified by any party. However, in Plaintiff's Complaint, Plaintiff recognizes Moores A.M.E. Church as the owner of record of the 3.69 acre tract, as it claims an interest in the property as the successor-in-interest to Moores A.M.E. Church.

In late 2014, certain former members of Moores A.M.E. Church became dissatisfied with the national A.M.E. Church (hereinafter "dissenting members"). On December 17, 2014, December 29, 2014, and January 4, 2015, these dissenting members convened meetings for the purpose of severing affiliation with the national A.M.E. Church and organizing Moores Church (hereinafter "disaffiliation meetings"). These meetings were not convened in the usual manner of calling a meeting of the Moores A.M.E. Church congregation as admitted by Perry Bussey, Plaintiff's representative and organizer of the disaffiliation meetings. Generally, meetings of the Moores A.M.E. Church congregation are announced two (2) weeks in advance during service with the knowledge of the pastor. Mr. Bussey testified that the assigned pastor, Dr. Vincent Johnson (hereinafter "Rev. Johnson"), was not informed of these meetings. During these meetings, the members present voted to disaffiliate from Moores A.M.E. Church and the national A.M.E. Church. There are no minutes for these meetings. Subsequently, by letter dated February 26, 2015, these dissenting members notified the leadership of Moores A.M.E. Church and the national A.M.E. Church of their decision, effective immediately, and enclosing a list of signatures of persons desiring to separate from the A.M.E. Church.

Moore's A.M.E. Church maintained an affiliation with the national A.M.E. Church for approximately ninety-five (95) years prior to the actions of Plaintiff and the dissenting members. At all relevant times, Moore's A.M.E. Church utilized the names, customs, polity, and literature of the national A.M.E. Church and operated pursuant to the guidelines established in *The Discipline*—the governing constitution and bylaws of all churches within the national A.M.E. Church connection, including Moore's A.M.E. Church, as evidenced by the admissions and testimony of Mr. Perry Bussey, Plaintiff's 30(b)(6) deposition representative.

In particular, pursuant to *The Discipline*, Moore's A.M.E. Church (a) obtained and accepted pastors through assignment by the national A.M.E. Church; (b) held meetings of the church congregation sitting in Quarterly Conference; (c) participated in Annual Conferences of the Seventh Episcopal District of the A.M.E. Church; (d) appointed and elected its officers pursuant to the processes set forth in *The Discipline*; (e) held meetings of church leadership convened as the Official Board; and, (f) paid assessments and dues to the national A.M.E. Church. At the time of the actions of Plaintiff and the dissenting members, *The Discipline* was the sole governing document of Moore's A.M.E. Church.

As provided in *The Discipline*, the pastor is the only person authorized to call a meeting of the officers or congregation of an A.M.E. Church. Specifically, *The Discipline* states “[t]he pastor shall call and preside over all . . . meetings for the transaction of spiritual and temporal business” *Id.* Plaintiff's representative, Mr. Bussey, admits that the disaffiliation meetings were not called by the assigned pastor. Moreover, the assigned pastor was purposely not informed of these meetings wherein disaffiliation was discussed and the vote to disaffiliate occurred.

The Discipline provides two (2) mechanisms by which a local church considers and transacts local church business, including the transfer of church property: the "Church Conference" and the "Quarterly Conference." The Church Conference is a periodic meeting of "the members and minister residing and worshipping at a given place for the consideration and transaction of local church business, the minister in charge being the presiding officer." The Quarterly Conference is a quarterly meeting of the leadership of a local church, with the District Elder presiding, for the purposes of discussing specific business issues relating to the operation and administration of the local church.

For the purpose of transferring property, *The Discipline* sets forth the following process:

The Board of Trustees, duly elected by the local church as provided by The Doctrine and Discipline of the African Methodist Episcopal Church, may take such steps to purchase, mortgage, sell, transfer, and convey real and personal property, PROVIDED that such transfer has been duly approved by the resolution in Quarterly Conference of the said church, and also by the trustees of the Annual Conference in which the property is located, and of which the presiding bishop is present.

Furthermore, as provided in *The Discipline*, withdrawal of membership in an A.M.E. church is done so purely on an individual basis and as a personal right. A withdrawing member has no right or title to the personal or real property of the church, including the church building.

The record does not reflect a resolution from Quarterly Conference transferring the subject property from Moores A.M.E. Church to Moores Church, nor is there evidence in the record of a vote of the congregation at any disaffiliation meeting to transfer property. Additionally, there is no evidence in the record that any entity affiliated with Plaintiff has existed or possessed the subject property prior to Plaintiff's actions in 2015. In fact, Mr. Bussey testified



that since the early 1900s up and until Plaintiff's actions in 2015, Moores A.M.E. Church possessed the subject property.

CONCLUSIONS OF LAW

STANDING

Plaintiff admits in the Complaint that Moores Church was formerly known as Moores A.M.E. Church. Plaintiff initiated this action against the A.M.E. Church, and church officials, Bishop Franklin Norris, Elder Rosalyn Coleman, and Dr. Johnson. Thereafter, a Motion for Joinder of Defendant was filed to join Moores A.M.E. Church, the entity referenced in the property records and to which Plaintiff alleges that it is the successor in interest. In an Order dated July 22, 2015, the Honorable William P. Keesley, Circuit Judge, denied the Motion for Joinder but found that the "parties who are designated seem to include all the parties necessary to resolve this dispute and determine if the property in question belongs to an A.M.E. church (or the A.M.E. Church) or whether it belongs to a local association of members who have terminated their affiliation with the A.M.E. Church." The Court further found that:

...the absence of some entity known as Moores A.M.E. Church does not have an impact upon the ability to obtain the complete relief requested. While a deed does list the owner as Moores A.M.E. Church, the interests in the realty can be determined in such a manner that any group affiliated with Moores A.M.E. Church would be protected and/or bound by the decision. Among other things, if it is decided that the church doctrine cited above controls, the property belongs to the incorporated A.M.E. Church.

Id.

Accordingly, the Defendants have standing to present their arguments as to the ownership interests of Moores A.M.E. Church.

NEUTRAL PRINCIPALS OF LAW

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.” Id. 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.

This Court must apply property law to determine whether the real property and personal property titled in the name and possessed by Moores A.M.E. Church remains with the A.M.E. Church following the actions of certain dissenting members of the Church now claiming to be Moores Church.

I. **Moores A.M.E. Church Is The Rightful Owner Of The Subject Property, And Any Actions Taken By Plaintiff Failed To Alter Moores A.M.E. Church’s Ownership of the Property.**

A. **Moores A.M.E. Church is the legal owner of the 0.44 tract of property conveyed in the 1980 Deed.**

Pursuant to the Deed, Moores A.M.E. Church holds legal title to the property described in the deed. The Deed clearly identifies Moores A.M.E. Church as the grantee. No other entity has interest in the property conveyed.

Plaintiff's claim of ownership over the property is based upon its assertion that it is the successor-in-interest to Moores A.M.E. Church by actions taken at informal meetings. However, these informal actions did not change Moores A.M.E. Church as the legally titled owner of the property. Therefore, Defendants are entitled to judgment as a matter of law and a declaration that the property is owned by Moores A.M.E. Church as a connectional church within the A.M.E. Church.

B. Moores A.M.E. Church holds good title to the 3.69 acre tract adjacent to the property described in the deed pursuant to Moores A.M.E. Church's actual, hostile, exclusive, and continuous possession of the property for a period over twenty (20) years.

Moores A.M.E. Church is entitled to the irrebuttable presumption that it is the rightful owner of the 3.69 acre tract of land based on its actual, open, hostile, exclusive, continuous, rightful, peaceful, and uninterrupted possession, use, and enjoyment of the property for more than twenty (20) years. Further, Plaintiff concedes that Moores A.M.E. Church is the owner of the 3.69 acre tract as it claims rights to the property as the successor-in-interest to the property.

In South Carolina, when a party shows actual, hostile, exclusive, and continuous possession of land for a term of at least twenty (20) years, a grant is presumed to exist. See Haithcock v. Haithcock, 123 S.C. 61, 115 S.E. 727 (1923). "This common law presumption rests on the theory that after a long period of peaceful possession, the possessor, or those under whom the possessor hold will be presumed to have entered upon and possessed the property under a valid grant, now lost." 8 S.C. Juris. Adverse Possession § 10.

A claimant must prove its possession of the subject property was continuous, hostile, actual, open, notorious, and exclusive for the statutory period by clear and convincing evidence. McDaniel v. Kendrick, 386 S.C. 437, 688 S.E.2d 852 (2009); see also All Saints Parish.

Waccamaw v. Protestant Episcopal Church in the Dioceses of S.C., 358 S.C. 209, 595 S.E.2d 253 (Ct. App. 2004). The claimant must point to particular acts of ownership which indicate clear evidence of possession of the property adversely during the statutory period. First Baptist Church of Woodruff v. Turner, 248 S.C. 71, 149 S.E.2d 45 (1966) (finding adverse possession where the church treated the property as its own by selling a large portion of the property, giving a mortgage, and leasing the property as rental property). "The claimant's possession must be hostile to not only the true owner, but also to the rest of the world so as to indicate his exclusive ownership of the property." Lynch v. Lynch, 236 S.C. 612, 115 S.E.2d 301 (1960).

Adverse possession may be evidenced by the receiving of rent, the building of structures on the property, the improving of the property, the selling of burial plots on the property, or the giving of a deed or mortgage, all being acts which ordinarily indicate ownership, or assertion of title. Id.; see also All Saints, 358 S.C. at 230, 595 S.E.2d at 265 (noting that the Parish had built structures on the property, improved the property, mortgaged the property on separate occasions, and sold burial plots from the property, indicating ownership in fee simple of the property).

In this case, Moores A.M.E. Church was in actual, exclusive, and continuous possession of the subject property for approximately ninety-six (96) years until Plaintiff's actions in 2015. Since its founding, Moores A.M.E. Church solely conducted A.M.E. worship services to the exclusion of all others for many years. There is no record that Moores A.M.E. Church's possession and use of the subject property was ever subject to that of another, nor is there any evidence that Moores A.M.E. Church ever paid rent to a landlord.

Moores A.M.E. Church's possession of the subject property was open and notorious, having been acknowledged as the owner of the subject property in the community for over twenty (20) years as evidenced in the manner in which the church conducted business. For



example, the church acquired and paid a mortgage as Moores A.M.E. Church, and opened accounts under the name Moores A.M.E. Church. Moores A.M.E. Church in every way treated the property as its own. See Presbyterian Church of James Island v. Pendarvis, 227 S.C. 50, 86 S.E.2d 740 (1955) (holding the church's dealings with the property for a period of more than half a century as if it owned it in fee simple and the fact that the church's title had not been questioned for approximately fifty (50) years was evidence of the church's adverse possession). Mr. Bussey, Plaintiff's representative and leader of the dissenting group, testified that Moores A.M.E. Church has possessed the property continuously and exclusively from the early 1900s up and until Plaintiff's actions in 2015.

In addition, Moores A.M.E. Church has held possession of the subject property for almost 100 years, hostile and adverse to the entire world. Lynch, 236 S.C. at 619, 115 S.E.2d at 304. The hostility element may be established if the claimant occupies the property under the mistaken belief that it belongs to him. McDaniel, 386 at 442-43, 688 S.E.2d at 855. Moores A.M.E. Church maintained its belief of exclusive ownership of the property at all times. Further, the record is devoid of any evidence to indicate the subject property belongs to another person or entity. While the Deed and property description indicates the owner of the 3.69 acre tract of land as belonging to "Moores Church," since the church's affiliation with the A.M.E. denomination, no church known by any name other than Moores A.M.E. Church has been in possession of the property. Moreover, Plaintiff's claim of ownership is predicated upon Moores A.M.E. Church's ownership of the subject property, as Plaintiff alleges it is the successor-in-interest to the property. Thus, Moores A.M.E. Church must be the true owner of the property and its ownership has not been questioned until this litigation. The facts in the record clearly indicate that Moores A.M.E. Church has an irrebuttable presumption of good title to the 3.69 acre tract of



land because of its continuous, actual, open, hostile, and exclusive possession of the property for a period well over twenty (20) years.

Accordingly, Plaintiff's actions taken at the disaffiliation meetings did nothing to alter Moores A.M.E. Church's ownership of the property. Moores A.M.E. Church remains the rightful legal owner of the property. Accordingly, Defendants representing the interests of Moores A.M.E. Church are entitled to judgment as a matter of law.

II. **Plaintiffs Failed To Adhere to the Established Procedures For Calling Meetings Or Transferring Property Required By *The Discipline*. Therefore, Any Votes Taken To Disaffiliate From Moores A.M.E. Church And The National A.M.E. Church Did Not Affect Moores A.M.E. Church's Ownership Of The Subject Property.**

As a separate and independent ground for relief, this Court concludes that pursuant to a neutral examination and application of *The Discipline*, the record in this case establishes that Plaintiff and dissenting members failed to act in accordance with the established procedures for calling church meetings and transferring church property set forth in *The Discipline*—its governing constitution and bylaws. Accordingly, no actions taken by Plaintiff and the dissenting members divested Moores A.M.E. Church of its ownership of the property. Therefore, Moores A.M.E. Church remains the legal owner of the property.

The neutral principles of law approach adopted by our Supreme Court in All Saints and Pearson, expressly allows for an examination and application of the church's governing documents for the purposes of evidencing corporate procedures and processes. See All Saints (court examined the Constitutions and Canons of the Protestant Episcopal Church in rendering its decision).

The neutral principles of law approach adopted in All Saints and Pearson follows the United States Supreme Court, which in Jones v. Wolf, provided that it is necessary that civil

courts look to religious documents such as church constitutions, deeds, corporate charters, or the constitution of the general church in resolving church disputes, though cautioning that "in undertaking an examination of religious documents, such as a church constitution, a civil court must take special care to scrutinize the document in purely secular terms" 443 U.S. 595, 604 (1979).

The examination and application of the secular provisions of *The Discipline* is akin to an examination of a corporation's bylaws, therefore, a review of *The Discipline* is required for the purpose of evidencing corporate procedures and processes. *The Discipline* contains secular and civil provisions addressing the calling of meetings, the conducting of church business, and the transferring of church property. This Court may scrutinize these provisions without applying any of *The Discipline's* religious provisions. In the present case, an examination and application of *The Discipline* evidences the manner by which Moores A.M.E. Church calls meetings, conducts business, and transfers church property.

The record in this case clearly establishes that Plaintiff and dissenting members failed to follow the established procedures for conducting church meetings and transferring church property as set forth in *The Discipline*. *The Discipline* requires that the pastor call and preside over all meetings regarding the spiritual and temporal business of the church. The disaffiliation meetings were not called in this manner. Most notably, the pastor was not informed nor invited to the disaffiliation meetings; Mr. Bussey admitted that he intentionally violated the procedures for calling meetings set forth in *The Discipline*.

Furthermore, *The Discipline* requires that the trustees of the local church acquire approval from the Quarterly Conference of the local church, i.e. Moores A.M.E. Church, before property may be transferred. In the instant case, there is no claim by Plaintiff that Moores


A.M.E. Church ever transferred ownership of the church property to Moores Church pursuant to a resolution from Quarterly Conference. In fact, there was not a Quarterly Conference convened to transfer property. Most importantly, there is no documented evidence of a vote taken at any properly convened meeting to transfer church property from Moores A.M.E. Church to Moores Church; Plaintiff has not produced any meeting minutes evidencing such a vote. Plaintiff's claim of ownership of the subject property is based solely on the decision by dissenting members to disaffiliate from Moores A.M.E. Church and the national A.M.E. Church made in informal meetings.

Moores A.M.E. Church as a member of the national A.M.E. Church connection, at all times relevant, was governed by and operated pursuant to the A.M.E. Church and the procedures set forth in *The Discipline*. Because the record unequivocally reflects that Plaintiff and dissenting members deliberately failed to follow the procedures set forth in *The Discipline*, any votes taken at any meeting failed to affect Moores A.M.E. Church's ownership of the subject property, and Defendants representing the interests of Moores A.M.E. Church are entitled to judgment as a matter of law.

The rights of individual members of the church to disaffiliate with the A.M.E Church, Inc. is not infringed by this Court's ruling as to the property issues involved in this dispute. As stated by the South Carolina Supreme Court "[b]y joining the [Church] the members did not acquire such an interest in the property that they are entitled to take with them upon seceding. The property belonged to the [Church] before the members joined the [Church], and it belongs to the same after they have withdrawn. They are simply not now a part of that church." Adickes v. Adkins, 264 S.C. 394, 402 (1975).

IT IS THEREFORE ORDERED that Defendants' Motion for Summary Judgment is GRANTED.

AND IT IS SO ORDERED.


The Honorable Jocelyn Newman

March 24, 2017
Columbia, South Carolina.