

THE STATE OF SOUTH CAROLINA

In the Supreme Court

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APPEAL FROM CHARLESTON COUNTY

SC Court of Appeals

Court of Common Pleas

The Honorable J. C. Nicholson, Jr., Circuit Court Judge

Appellate Case No. 2016-000513

Common Pleas Case No.: 2013-CP-10-1877

The RMUE through its General Officers Barbara B. Clark, Warren E. Hatcher, Cassie Keeton, Daniel Green, Powell Hampton, Amos Hatcher, Bobby Keeton, James Moseley, and Willie B. Oliver,Respondents

vs.

Herman Bolds, Richard Brown Cecil Parker, Theodore Miller, Carl Miller, Joan S. Roper, Martha Mathews, Thomasina G. Walker, Marilyn S. Washington, Jaree R. Stanley, Audrey Wilder, Derrick Lucas, Willie Parker, Jr., James Cromwell, James A. Roper, III, Elizabeth R. Parker, Jacqueline R. Miller, and Payne Church,.....Appellants

FINAL BRIEF OF APPELLANTS

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STATEMENT OF ISSUE ON APPEAL

1. WHETHER THE TRIAL COURT ERRED IN DETERMINING PROPER OWNERSHIP OF THE REAL PROPERTY?

STATEMENT OF THE CASE

In March, 2013, in the Charleston County Court of Common Pleas, Respondents brought this action against Appellants seeking resolution to issues regarding real and personal property and alleging that Payne Chapel Church had taken the property from them. The appellants filed an Answer denying all allegations.

The case was tried on June 15, 2015 for two days and Judge Nicholson took the case under advisement to determine who is the highest authority at the RMUE Church, who owns the property and encouraged the parties to mediate the case to resolve the matter. In addition, he ordered the parties to attend mediation to try to resolve all or part of the case. Before the start of the trial, Defendants (Appellants) raised to the trial court a Motion for Summary Judgment on the grounds of lack of standing. (R. Pg. 49-53). The motion was denied. At the conclusion of the Plaintiff's case, Defendants renewed their motion to dismiss the case with regard to demonstrating who owns the property, and the motion was denied. (R. Pg. 148-150). At the end of the two-day trial, the motion was renewed and denied. (R. Pg. 338, L. 1-8). The ruling by the trial court was taken under advisement and the parties were ordered to appear for mediation in an attempt to resolve the issues.

On August 31, 2015, the parties with their counsels appeared for mediation before M. Dawes Cooke, Jr. After twelve hours of mediation, the parties reached a settlement agreement which was signed by counsels for both parties. After the agreement, the Plaintiffs refused to adhere to the settlement agreement. The parties notified the court of the problems with the mediation and

the Defendants were advised to file a Motion to Compel Settlement so that the court may hear the matter. (R. Pg. 544, l. 16 through Pg. 545, l. 2). Therefore Defendants filed a Motion to Compel Settlement. On December 16, 2016, a hearing was held before Judge Nicholson on the motion and an Order was filed on February 10, 2016. The argument that was presented before the court to rule on was whether or not there were authorized members of both sides to settle the claim at the mediation. (R. Pg. 562, l. 18-25). It was agreed upon the members that section 2 of the settlement agreement may be modified by agreement between Rev. Junious and Bishop Polite in an effort to resolve ecclesiastical matters. (R. Pg. 563, l. 12).

There were several rulings made that were unrelated to the motion hearing who would take possession of the properties, including the church, the cemetery and the fellowship hall. However, the trial court did not ascertain who owned the real property, the original trustees, or who had equity in it and never considered that the original title to the property was not in the national church

On March 10, 2016, Defendants served the Notice of Appeal on Plaintiffs.

FACTS

The real property and the church at issue is located at 1560 Camp Road, Charleston, SC consisting of 2.37 acres of land and marsh, a church building, a fellowship hall and cemetery. On January 4, 1884, F.P. Seabrook conveyed the property to St. James Church, James Island. (R. Pg. 343-344 - Deed Book G-19, Page 210).

In 1875, Payne Church was established by Rev. Pappy White and the founding fathers of the church. A congregation was organized, a church known as Payne's Chapel R.M.U.E. Church was erected and trustees of the church were elected. A church was built on the property and named "Payne's Chapel", later to be renamed "Payne's Chapel Independent Church". In 1880, Payne's

Chapel Independent Church joined the union with the African Methodist Church ("AME"). The church name was changed to Payne African Methodist Episcopal Church.

In 1884, Payne withdrew from the AME, thus becoming "Payne Church". In the same year, the Reformed Methodist Union Episcopal (RMUE) denomination was formed, which was originally affiliated with the AME Denomination.

On March 27, 1947, St. James Church, James Island, conveyed the property to Wesley Campell, Joe Grant and James Grant, Trustees, their Successor Trustees and Assigns as long as the said premises are used for religious and burial purposes, and that the Trustees herein named and their Successor Trustees hold the within described premises for the use and benefit of Payne's Chapel R.M.U.E. Church as a place of worship of Almighty God. (R. Pg. 345-347 - Deed Book P47, Page 159).

On April 8, 1978, the founding trustees recorded a trust deed with the Charleston County Register of Deeds and held legal title to the property. (R. Pg. 345-347 - Trust Deed, Book P47, Page 158). In 1978, Payne Chapel Church obtained a mortgage on the church property.

Payne Church joined the Reformed Methodist Union Episcopal Church, a denomination and voluntary union that is made up of many churches in counties throughout the states of South Carolina and Georgia. It was governed under their Doctrines and Disciplines.

As the union was not providing financial assistance (R. Pg. 119, l. 19-25; Pg. 120, l. 1-12), and there were ecclesiastical disputes, Payne Church decided that they would not remain within the union and withdrew according to the doctrines and discipline. In fact, as they had not paid their dues to be a part of the union, they were eliminated by the union on December 28, 2012 (R. Pg. 462). As a result of withdrawing, the Plaintiffs' raised a question as to who owns the property

and filed a complaint against the Defendant for the property including the church, a cemetery and a fellowship hall.

Payne Chapel, through their trustees and members, have maintained and controlled the properties. The RMUE never constructed, renovated or provided financially for the church, the buildings or the cemetery. (R. Pg. 119, l. 19-25; Pg. 166, l. 11-25; Pg. 167, l. 1-17). Payne Chapel completed renovations on the property, they exclusively possessed the property, they paid taxes on the property, they paid the mortgage for the property, all without the help of the union, even prior to joining the union. The union never provided any financial assistance toward the mortgage, property taxes, property insurance, church van or other personal property. (R. Pg. 166, l. 11-25). The only relationship that existed between the parties was a hierarchical relationship, and when the relationship ended on December 28, 2012. (R. Pg. 462). When the union left Payne Chapel Church, the church became incorporated.

At no time did Payne Chapel transfer their interest to the union. (R. Pg. 125, l. 23-25; Pg. 126, l. 1). When the union notified Payne Chapel that they were no longer a member of the union, they did not state to them that they had to leave the property and Payne Chapel remained on the property. According to the Doctrine of Disciplines, it states that in case of a split, the one who remains keeps the property. (R. Pg. 209, l. 8-21). The union never paid any money toward the property or tried to get back into the church. (R. Pg. 211, l. 11-13). The members of Payne Chapel Church still remain and the members of the union moved away. (R. Pg. 212, l. 23-25). (R. Pg. 541, l. 1-25). During the motion hearing, the court discussed a non-disparagement agreement wherein the parties agreed that the church would return to regular status and no schism or secession would be considered until the 2016 annual conference.

During the motion hearing, Judge Nicholson questioned the parties about the leadership of the church, how the preachers were chosen. (R. Pg. 542, l. 2 through Pg. 543, l. 23).

ARGUMENT

The issue on appeal is whether or not the trial court erred in determining proper ownership of the real property. As the majority opinion notes, it is inappropriate for a court to delve into ecclesiastical matters unless it can do so "without deciding issues of religious law, principle, doctrine, discipline, custom, or administration." *Banks v. St. Matthew Baptist Church*, 406 S.C. 156, 161, 750 S.E.2d 605, 607 (2013). However, courts may rule on issues concerning real and personal property ownership.

"Religious organizations are generally divided into two groups: (1) congregational churches and (2) hierarchical churches." *Seldon v. Singletary*, 284 S.C. 148, 149, 326 S.E.2d 147, 148 (1985). Our supreme court has explained the differences between the two types of churches: A congregational church is an independent organization, governed solely within itself, either by a majority of its members or by such other local organism as it may have instituted for the purpose of ecclesiastical government, while a hierarchical church may be defined as one organized as a body with other churches having similar faith and doctrine with a common ruling convocation or ecclesiastical head. Under the congregational form of government . . . the local church is not subject to the control of any higher ecclesiastical judicature and is self-governing in its religious functions. *Id.* at 149-50, 326 S.E.2d at 148-49. Our supreme court elaborated on how congregational churches function in *Williams v. Wilson*: The evidence is uncontested that Christian Churches are independent congregational churches governed by their own congregations. The congregation selects the church's trustees and the trustees are always members

of that church. In a congregational church, the congregation is the highest authority. Williams, 349 S.C. at 342, 563 S.E.2d at 323.

To bring a lawsuit for church property, a party must have a personal stake or interest in the subject matter of the lawsuit to have standing. Anchor Point v. Shoals Sewer, 308 S.C. 422, 428, 418 S.E.2d 546, 549 (1992); Duke Power v. South Carolina Pub. Serv. Comm'n, 284 S.C. 81, 96, 326 S.e.2d 395, 404 (1985) (holding that "to have standing to present a case before the courts of this State, a party must have a personal stake in the subject matter of the lawsuit.").

In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party. Strother v. Lexington County Recreation Comm'n, 332 S.C. 54, 61, 504 S.E.2d 117, 121 (1998).

In their complaint, the Respondents sought a declaration that the union owned the real and personal property of the church. Trial was held in the circuit court and the Trial Court ruled in an order that the property belonged to Payne R.M.U.E. Church, a/k/a Payne's Chapel R.M.U.E. Church (R. pg. 4 - Nicholson Order dated 2/10/16). The trial court failed to ascertain who owned it or had equity in it and who was responsible for paying the mortgage on the Fellowship Hall / Life Center.

Prior to joining the union, Payne Chapel Church had title to the property including the land, church building, cemetery and fellowship hall. The church used the property, paid all financial burdens, including the mortgage, taxes, insurance, renovations and upkeep. The union never made any payments toward the real property or personal property. At the time that the church and the union split, members of the church who wanted to stay with the union left. Payne Chapel RMUE Church existed prior to the joining of the union and remained owners of the property. The title to

the property remained with the trustees and successors of Payne Chapel RMUE Church. The deed to the property was not ever transferred by the trustees to the union. The trustees of the original church maintained control of the property, cared for the property. The union, a national organization, was not ever under the control of, financially maintained or cared for the real property or personal property.

It is uncontested that the real property and personal property is titled and held in the names of the original trustees of Payne Chapel RMUE Church, the church that existed long before the union. It is equally undisputed that there is nothing in the deeds referencing any trust in favor of the union. The United States Supreme Court noted the “peculiar genius” of a “neutral principles analysis” in that it orders “private rights and obligations to reflect the intentions of the parties”. *Jones v. Wolf*, 443 U.S. at 603. The parties, before dispute arises, can structure their relationship so that any dispute over church property ownership will be resolved on the basis of their intent. The union, which is a national organization, was governed by The Doctrine of Disciplines. According to the Doctrine of Disciplines, in case of a split, the one who remains keeps the property. (R. Pg. 209, l. 8-21). Even without reviewing the current title of the property, the Respondents left the church and according to their own governing rules, cannot obtain ownership to the property. The property would remain with the original trustees of the church as deeded.

The undisputed evidence is that all real and personal property at issue was purchased, constructed, renovated, maintained and possessed by the church prior to, during and after the joining of the union. There is no clear, definite, unequivocal evidence of the existence of an express or constructive trust to the property in favor or the union.

It is clear from the record and evidence that Appellants, an incorporated church, are titled as the owners of the properties, both real and personal, including the land, church building,

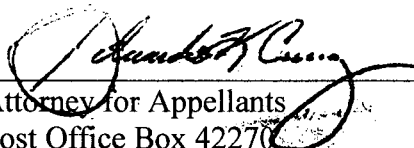
cemetery and fellowship hall. The Respondents, an organization/denomination, have no legal, beneficial, or equitable interest in the real or personal properties. The Appellants argue that the Trial Court stripped them of their ownership rights with regards to their legal and equitable interests in the cemetery, land upon which the church sits and the land and mortgage upon which the fellowship hall sits which mortgage is being paid by the Appellant.

CONCLUSION

In conclusion, the Trial Court failed to ascertain the full evidence and testimony to property ascertain that the land and property were titled to, maintained by and controlled by the Trustees of Payne Chapel Church RMUE, not the union. The Respondents did not have standing to bring this action to court and as such motion to dismiss should have been granted.

RESPECTFULLY SUBMITTED,

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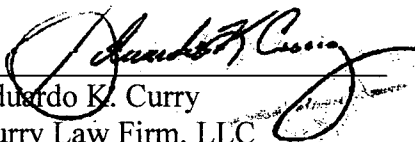
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CERTIFICATE OF COUNSEL

The undersigned certified that this Final Brief complies with Rule 211(b), SCACR.

March 24, 2017


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CERTIFICATE OF COUNSEL

I certify that I have served the **Appellant's Record On Appeal** on The RMUE through its General Officers Barbara B. Clark, Warren E. hatcher, Cassie Keeton, Daniel Green, Powell Hampton, Amos Hatcher, Bobby Keeton, James Moseley, and Willie B. Oliver by depositing a copy of it in the Unites States Mail, postage prepaid, on March 8, 2017, addressed to their attorney of record, Darrell Thomas Johnson, Jr., PO Box 1125, Hardeeville, SC 29927.

I certify that the Record on Appeal contains no matter which is irrelevant to the appeal.

March 8, 2017


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