

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM FAIRFIELD COUNTY
COURT OF COMMON PLEAS
Judge Brooks P. Goldsmith, Circuit Court Judge

CASE NO.: 2012-213071

James R. Glover, as Presiding Elder of the)
Lancaster District of the African Methodist)
Episcopal (A.M.E.) Church,)

Appellant,)

v.)

James Stevenson, Roddie Armstrong,)
Lyndsay Hopkins, Freddie Armstrong,)
Janice Samuels, Daisy McGraw, Jeannie)
Hall, Rosa Chappell, Alzine Woodard and)
Jean McCory,)

Respondents.)

**AMICUS CURIAE BRIEF OF THE
AFRICAN METHODIST EPISCOPAL CHURCH, INC.**

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STATEMENT OF ISSUES ON APPEAL

I.

May South Carolina, consistent with the first amendment, recognize the obligation which accompany membership in a hierarchical church?

II.

Does the statute of frauds prevent enforcement of obligations created by the Book of Discipline of the A.M.E. Church?

STATEMENT OF THE CASE

The statement in the Brief of Appellant appropriately sets out the history of this case.

STATEMENT OF FACTS

The facts are recited in the Brief of Appellant.

ARGUMENTS

INTRODUCTION

The African Methodist Episcopal Church, Inc. is a hierarchical church. Through the connection it provides to its member churches an outlet for foreign and domestic missions, qualified ministers, educational materials, institutes of higher learning, spiritual nurture and guidance and the structure for the work and spiritual life of the congregations. It has, then, a keen interest in preserving properties acquired under its auspices for The African Methodist Episcopal Church, Inc. It has, in order to protect its interest, promulgated rules to insure that property of individual churches are held in trust for the denomination. The rules and regulations which control the AME Church and its members are found in the Doctrine and Discipline of the African Methodist Episcopal Church. At all times relevant to the case at bar, the Discipline has required that use of the name, customs, policy or literature of the AME Church, the conveyance of property to the trustees of a local church, the acceptance of the pastorate of ministers appointed by a bishop, the payment of conference assessments or dues or participation in Quarterly Conferences and Annual Conferences subject the title to all local church properties to a trust in favor of the African Methodist Episcopal Church. Under neutral principles of trust law and the Discipline, title is in the African Methodist Episcopal Church, Inc.

I.

An examination of contract and trust law is not only appropriate but required under All Saints.

All Saints Parish Waccamaw v. The Protestant Episcopal Church, 385 S.C. 428, 685 S.E.2d 163 (2009) requires that the court resolve the dispute by reference to “objective well-established concepts of trust and property law.” 385 S.C. at 444, 685 S.E.2d at 172. The Court may apply

“property, corporate, and other forms of law to church disputes.” Id., 385 S.C. p. 428, 444, 685 S.E.2d 163, 172 (2009); see also Banks v. St. Matthews Baptist Church, 406 S.C. 156; 750 S.E.2d 605 (2013). Indeed the court below determined whether common law created a trust. Respondent is incorrect, then, in asserting that this court cannot consider whether a trust is created simply because its terms are set out in the Discipline. This court is to determine whether a trust was created by resort to civil contract law. This is the necessary and proper procedure to follow

Where, however, a church controversy necessarily involves rights growing out of a contract recognized by the civil law, or the right to possession of property, civil tribunals cannot avoid adjudicating these rights under the law of the land, having in view, nevertheless, the implied obligations imputed to those parties to the controversy who have voluntarily submitted themselves to the authority of the church by connecting themselves with it.

Morris Street Baptist Church v. Dart, 67 S.C. 338, 455 S.E. 753, 754 (1903)

The consideration of the obligation imposed by the voluntary association with the A.M.E. Church as required by Dart does not run afoul of the first amendment. In Jones v. Wolf, 443 U.S. 595 (1979) the United States Supreme Court held that the State of Georgia consistent with the first amendment could consider a trust in favor of the denomination created by the Book of Church Order of the Presbyterian Church. It stated, “[a]ll who unite themselves to [a religious association] do so with an implied consent to this government, and are bound to submit to it.” Id. at 617. The application of Dart and the employment of obligations imposed by the Discipline are fully consistent with the first amendment.

II.

Respondent argues in its Brief that because a trust is created through the Book of Discipline, it is therefore a controversy over religious doctrine. On the contrary, the Book of

Discipline makes an offer which must be interpreted by resort to the civil law of contrasts. The Discipline makes an offer in which it promises individual churches to provide pastors, literature, foreign outreach and other services in exchange for a promise to hold in trust for the denomination all real property acquired by the local church. The local church may accept that offer by accepting pastors, using the name A.M.E. Church and other ways (R- 75) The record shows that this offer was accepted in writing by the Pine Grove Church trustees. In its letter of withdrawal, from the A.M.E. Church the trustees note that the withdrawal comes “after more than 137 years after a certain Covenant and Mutual Agreement was first signed between the A.M.E. Church and the Founders of Pine Grove Church on July 12, 1873” (R-77). This writing evidences the acceptance of the A.M.E. Church’s offer by use for 137 years of the A.M.E. name and by accepting ministers appointed by the A.M.E. Church. Although the July 12, 1873, Agreement is not in the record, the inference is that the trustees, in a writing signed by them agreed to be bound by the rules governing all A.M.E. Churches. It is for this reason that summary judgment was not appropriately granted to Respondents.

III.

The requirements to remove the trust
agreement from the Statute of Frauds are met.

A voluntary acknowledgement of a trust will dispense with the requirement of written proof to establish its existence. See, e.g. Rutledge v. Smith, 6 S.E.Eq. (1 McCord Eq.) 119 (1825). Here, the trustees of the local church were aware that the Discipline imposed a trust when they affiliated with the hierarchical church. The letter of the local church resigning from the denomination contains an acknowledgement of their use of assigned pastors and affiliation with the national church. In view of these admissions, the trustees cannot complaint about the creation of a trust.

See, Ramage v. Ramage, 283 S.C. 239, 322 S.E.2d 22 (Ct. App. 1984). The voluntary association with the denomination gives rise to obligations. See, e.g., Morris Street Baptist Church v. Dart, 67 S.C. 338, 455 S.E. 753 (1903). Even if there were no writings removing the Statute of Frauds, plaintiffs would be equitably estopped. They voluntarily accepted benefits conveyed by the denomination. The denomination expended funds in supplying pastors, materials and support to the local church. Those contributions cannot be restored to the denomination. The only adequate remedy is to enforce the trust bargain. "In order to overcome statutory requirements that an agreement be in writing, the party asserting estoppel must show that he suffered a definite, substantial and detrimental change of position in reliance on such agreement and that no remedy except enforcement of the bargain is adequate to restore his former position." Player v. Chandler, 299 S.C. 101, 382 S.E.2d 890, 894 (1989), see also Atlantic Wholesale Co., Inc. v. Solandz, 283 S.C. 36, 320 S.E.2d 720 (Ct. App. 1984). Accordingly, plaintiffs are estopped from asserting the Statute of Frauds.

If there were no written acknowledgement of the contract and if there were no equitable estoppel, the Statute of Frauds would not present enforcement of the trust provision. Past performance of an order contract for conveyance of real estate will remove the contract from the Statute of Frauds. See, Beckham v. Short, 294 S.C.415, 365 S.E.2d 42 (Ct. App. S.C. 1988); Stackhouse v. Cook, 271 S.C. 518, 248 S.E.2d 482 (1978), Graham v. Prince, 293 S.C. 77, 358 S.E.2d 714 (Ct. App. 1987). Not only was there past performance, there was a full and complete performance on the part of the denomination. The Statute of Frauds is no bar to the enforcement of the trust for all three of those reasons.

IV.

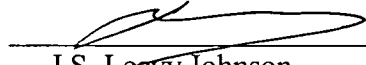
The express language of the deeds do not show that that a trust in favor of the denomination was intended or that such a trust was not intended. Accordingly, consideration of other neutral principles of law is appropriate.

This is not a case like All Saints Parish Waccamaw v. The Protestant Episcopal Church in the Diocese of South Carolina, 385 S.C. 428, 685 S.E.2d 163 (S. Ct. 2009). There, the denomination claiming the property under a purported trust, had itself quitclaimed the property to the local church. There was, then, no question under the quitclaim deed but that the denomination had divested itself of any interest in the property. Here, the deeds themselves are ambiguous as to whether a trust in favor of the denomination was intended. Accordingly, it is appropriate to investigate the rights growing of a contract recognized by the civil law having in view the obligations imposed on the parties by their voluntary submission to the authority of the church by connecting themselves with it. Morris Street Baptist Church v. Dart, *supra*. It is for this reason the arguments in the Brief of Appellant p. 7-14 are not only permitted, but required. Respondent is incorrect in asserting, Brief of Respondent p. 4, that no South Carolina case permits inquiry into the obligations imposed by voluntary association under neutral principles of law. Indeed Dart imposes the obligation. Respondent has in its Brief of Respondent neither shown that the deeds vest title in the local church or that Appellants analysis is faulty.

CONCLUSION

The contract obligations assumed by the local congregation require, under neutral principles of law, that judgment be entered for plaintiffs.

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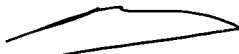
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CERTIFICATE OF COUNSEL

I certify that this Amicus Curia Brief complies with Rule 213, SCACR.


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January 27, 2014

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_____)

CERTIFICATE OF SERVICE BY MAIL

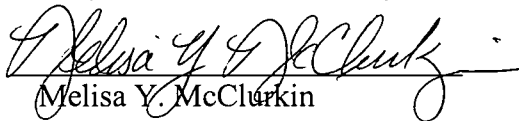
I, Melisa Y. McClurkin, employee of Johnson, Toal & Battiste, P.A., Attorneys for the Amicus Brief, in the above-captioned case, hereby certify that I have served the **Amicus Curiae Brief of Appellant** on opposing counsel of record, by mailing one copy of the same, postage prepaid and return address clearly indicated on said envelope on January 27, 2014, at the following addresses:

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