

STATE OF MICHIGAN
COURT OF APPEALS

EPHESIANS 4 NETWORK,

Plaintiff-Appellant,

v

PASTOR CLOYD MOORE and TRINITY
PENTECOSTAL HOLINESS CHURCH, a/k/a
TRINITY MINISTRIES,

Defendants-Appellees.

UNPUBLISHED

November 15, 2007

No. 272638

Wayne Circuit Court

LC No. 05-503992-CH

Before: White, P.J., and Saad and Murray, JJ.

PER CURIAM.

In this quiet title action, plaintiff appeals as of right from a circuit court order granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(5), and denying plaintiff's motion for summary disposition under MCR 2.116(C)(10). We vacate and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This Court reviews de novo a circuit court's summary disposition ruling. *Aichele v Hodge*, 259 Mich App 146, 152; 673 NW2d 452 (2003). The circuit court did not specify whether it found summary disposition appropriate pursuant to MCR 2.116(C)(5), on the basis that plaintiff lacked standing to pursue this action, or whether it found summary disposition warranted under subrule (C)(10), on the basis that no genuine issue of material fact existed. This Court reviews a motion made pursuant to either subrule by considering the pleadings, admissions, affidavits, depositions and other relevant documentary evidence to determine whether the moving party is entitled to judgment as a matter of law. *Walsh v Taylor*, 263 Mich App 618, 620; 689 NW2d 506 (2004); *Aichele, supra* at 152.

The parties do not dispute the basic facts underlying this action. In answering plaintiff's complaint, Pastor Cloyd Moore admitted that 935 Lafayette Boulevard had "belonged to the Trinity Pentecostal Holiness Church of Lincoln Park Michigan, since 1961 under the original Pastor Chester Hardy."¹ Trinity had been associated with the International Pentecostal Holiness

¹ Notwithstanding this admission, it appears that the property may have been held in the name of
(continued...)

Church (IPHC) for many years. Defendant became pastor of the church and a member of the IPHC in 1991, but withdrew in 2004. At no time did the deed to 935 Lafayette Boulevard reflect ownership of the property by plaintiff or the IPHC.

On December 15, 2003, defendants signed a land contract agreement to sell 935 Lafayette Boulevard to the Rehoboth Apostolic Church of Deliverance. Plaintiff asserts, and defendants do not dispute, that it received no notice of defendants' intent to sell the property. In October 2004, Moore left the IPHC and became an ordained bishop of the Union Gospel Holiness Church of God located in Alabama. On February 3, 2005, plaintiff made an official declaration that defendants "have ceased to use its property in accordance with the faith and Manual of the [IPHC]." Plaintiff then filed this action to quiet title.

Both parties sought summary disposition. Plaintiff asserted that defendants were bound by the Manual, which provides that a local church wishing to sell or mortgage real estate must give notice to the conference superintendent of the quadrennial conference in whose territory the property is located, and that if a local church ceases to use church property in accordance with the faith and the Manual, title to the property shall vest in the quadrennial conference in whose territory the property is located. Defendants failed to give such notice and transferred the church property to a different denomination. Plaintiff further argued that defendant Moore agreed to the provisions of the Manual and the IPHC's authority when he became the church's minister.

Defendants asserted that the church was associated with, but never owned by, the IPHC; that the local church joined as an independent church and always owned its own property; that the deed never included the Manual's language that the conveyance is made for the use and benefit of the ministry, and the property has always been held for the local church; and that the Manual provides that the local church can withdraw from the organization.

The record does not contain the Manual, although plaintiff's summary disposition brief quoted portions of it. The court granted judgment to defendants stating:

Okay, Pastor Moore built the church as was associated with the Trinity Pentecostal Holiness church then later was associated with the Ephesians and now is with apparently Union Gospel, but the Pastor Moore has sold the property, his organization, the Court is gonna quiet title [sic] it and so that the land contract to Rehoboth [defendant's vendee] will be valid.

So, the Court's gonna grant the Defendant's motion for summary disposition.

[Plaintiff's counsel]: Your Honor, as a point of clarification, the Court just noted that Pastor Moore built the church, Pastor Moore did not build this church.

[Defendants' counsel]: The congregation, yes.

(...continued)

the First Pentacostal Holiness Church until 1998 when it was transferred to the Trinity Pentecostal Holiness Church.

THE COURT: You can submit an order.

The dispositive questions in this case, which the circuit court failed to address, are whether the local Church joined the IPHC and became subject to the Manual, and whether the IPHC constitutes a hierarchical organization. Further, if it is determined that the Manual applies, its provisions must be interpreted and applied.

Although civil courts have general authority to resolve church property ownership disputes, the “First Amendment . . . ‘severely circumscribes the role that civil courts may play in resolving church property disputes.’” *Bennison v Sharp*, 121 Mich App 705, 712-713; 329 NW2d 466 (1982), quoting *Jones v Wolf*, 443 US 595, 602; 99 S Ct 3020; 61 L Ed 2d 775 (1979). The First Amendment “prohibit[s] civil courts from resolving church property disputes on the basis of religious doctrine and practice and require[s] that courts defer to the resolution of issues of religious doctrine or polity by the highest court of a hierarchical church organization.” *Bennison, supra* at 713. In determining whether a hierarchical church organization exists, the test is whether “a religious organization is but a subordinate part of a general church in which there are superior ecclesiastical tribunals with more or less complete power of control.” *Id.* at 720. Stated differently, a denomination is organized hierarchically if it has “a central governing body which has regularly acted within its powers,” in contrast to “the looser ‘congregational’ structure, with all governing powers and property ownership remaining in the individual churches.” *Calvary Presbyterian Church v Presbytery of Lake Huron of United Presbyterian Church in USA*, 148 Mich App 105, 108 n 1; 384 NW2d 92 (1986).

Because the circuit court did not address these issues, we vacate and remand for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Helene N. White
/s/ Henry William Saad
/s/ Christopher M. Murray