

IN THE COURT OF APPEALS OF IOWA

No. 7-089 / 06-1120
Filed March 28, 2007

FREEDOM CHURCH
(Evangelical Free Church of
Des Moines, Iowa),
Plaintiff-Appellant,

vs.

CENTRAL DISTRICT CONFERENCE
OF THE EVANGELICAL FREE
CHURCH OF AMERICA,
Minneapolis, Minnesota,
Defendant-Appellee.

Appeal from the Iowa District Court for Polk County, Donna L. Paulsen,
Judge.

Church appeals from a district court ruling denying its request for the
issuance of a permanent injunction. **REVERSED AND REMANDED.**

Harvey L. Harrison of Harrison & Dietz-Kilen, Des Moines, for appellant.

Kenneth W. Rittgers, Des Moines, for appellee.

Heard by Huitink, P.J., and Zimmer and Baker, JJ.

ZIMMER, J.

Freedom Church, formerly known as Eastside Evangelical Free Church of Des Moines, Iowa, appeals from a district court ruling denying its request for the issuance of a permanent injunction enjoining the Central District Conference of the Free Evangelical Church of America (Central District) from transferring and managing the assets of the church. Upon de novo review, we reverse and remand.

I. Background Facts and Proceedings.

Freedom Church is an Evangelical congregation that was incorporated on October 1, 1967, as the Eastside Bible Chapel of Des Moines. The congregation's name was subsequently changed to Eastside Evangelical Free Church of Des Moines, Iowa, on October 9, 1972. The congregation became known as Freedom Church on September 9, 2002.

The Evangelical Free Church of America (EFCA) is a national association of autonomous Evangelical churches. The EFCA is divided into regional districts that assist affiliated local churches. Freedom Church is affiliated with the EFCA and its regional branch, Central District.

In January 2001 Freedom Church was suffering from severe internal congregational problems and was in danger of closing. The church's congregation had dwindled to approximately thirty-five to forty members. The church's pastor, chairman, and two elders had resigned. Ed Jayne was the only remaining elder of Freedom Church. He learned of a program in a different regional district of the EFCA that had been established to rescue struggling local churches. The program involved transferring governance and control of church

assets to the church's regional district for a period of time while the district assisted the church in reorganizing and rebuilding. Jayne was hopeful the same program could be implemented for Freedom Church. He consequently contacted Norm Adamson, an associate superintendent of Central District, for assistance in revitalizing Freedom Church.

Jayne and other church members had ongoing discussions with Adamson throughout 2001 regarding options for the church and Central District's willingness to assist the church in rebuilding its congregation. These discussions culminated in a special congregational meeting of Freedom Church on November 4, 2001. At the meeting, the members of Freedom Church unanimously passed a resolution to "turn all governance, property and management over to the Central District" with the expectation that the district would be "responsible for the development of a healthy church." The resolution further provided that "[a]s the church becomes healthy and viable again, all funds, property and governing authority will be returned to the church making it a healthy autonomous Free Church." The resolution was conditioned on Freedom Church's approval of a letter of intent from Central District.

Central District considered Freedom Church's resolution at a board meeting held on November 15, 2001. Central District's board authorized Adamson to "further investigate and evaluate and bring a report to the District Board January 17, 2002 whether we should take legal responsibility for" Freedom Church. Calvin Swan, the superintendent of Central District, sent a letter dated November 15, 2001, to Freedom Church. The letter indicated Central District's willingness to "immediately begin the process of overseeing," governing, and

managing the church's assets and property. The letter cautioned Freedom Church "that in turning over this ministry to us you are giving us full governing authority until we believe it is wise to return that authority to the local church."

Swan concluded the letter by stating;

If this proposal is in keeping with your request for transferring your ministry and property to the Central District, EFCA we will begin the ministry transfer as soon as possible, begin a critical review of all other areas that could affect the property transfer, and if all is in order review the situation at our Board of Directors meeting on January 17, 2002 and take a final vote on the transfer.

On November 25, 2001, Freedom Church held a special congregational meeting and voted to amend their articles of incorporation to provide that all of the church property would be transferred to Central District in the event the corporation dissolved. Another special congregational meeting was held on December 9, 2001, at Freedom Church. Adamson attended the meeting on behalf of Central District and discussed the arrangement between Freedom Church and Central District. The church members present at the meeting were provided with copies of the November 15, 2001 letter from Swan. Jayne, Adamson, and David Keys (the pastor of Freedom Church) testified that the church members unanimously approved Central District's letter of intent at the December 9, 2001 meeting.

Central District's board of directors met on January 17, 2002. The meeting minutes indicate Swan reported to the board that Adamson was working with the Freedom Church congregation and "[d]etails are being worked on." The board did not take a final vote on the transfer of Freedom Church's assets and property to Central District.

Following the above-described events, Freedom Church began making efforts to rebuild its congregation under the leadership of Keys, who was appointed by Central District as the church's chairperson. The church continued to conduct its own daily operations, and it exercised independent corporate functions. Keys sent periodic updates to Adamson regarding the status of the congregation throughout 2002 and 2003.

It soon became evident that Freedom Church and Central District had different understandings of their relationship and different intentions regarding the future of the church. On March 4, 2003, Central District's board of directors met and voted to "sell all or part" of Freedom Church's assets and property "if necessary and to use the proceeds as determined by the Board of Directors." A series of e-mails between Adamson and Keys in July 2003 indicated the congregation believed the church would not close and control of the church's property would be returned to them at some point. Adamson attended a special congregational meeting of Freedom Church on August 29, 2004, where he stated that Central District would return control of the church only in the event it became a healthy church. On October 24, 2004, Freedom Church approved a resolution to "end our special relationship with the Central District and begin to manage our own affairs and assets."

On April 28, 2005, Central District informed Freedom Church it had determined the church was "no longer a viable congregation and that efforts of the district to revitalize the same have failed." Central District changed the locks on the church and indicated the property would be listed for sale. Freedom Church filed a petition seeking temporary and permanent injunctive relief. The

district court granted a temporary injunction, which enjoined Central District from listing the property for sale and preventing church members from having access to the church building. The district court denied Freedom Church's request for a permanent injunction, reasoning that the parties agreed to transfer all governance and control of Freedom Church to Central District.

Freedom Church appeals. It contends the district court erred in finding there was an enforceable agreement between Freedom Church and Central District to transfer permanent control of the church's property to Central District.

II. Scope and Standards of Review.

A request for an injunction invokes the equitable jurisdiction of the district court. Iowa R. Civ. P. 1.1501. Thus, our review of the district court's order denying the issuance of a permanent injunction is *de novo*. *Opat v. Ludeking*, 666 N.W.2d 597, 603 (Iowa 2003). We give weight to, but are not bound by, the district court's factual findings and credibility assessments. *Id.*

III. Discussion.

"The role of civil courts in resolving church property disputes is affected by decisions of the United States Supreme Court construing the impact of the free exercise and establishment clauses of the first amendment of the federal Constitution." *Fonken v. Community Church of Kamrar*, 339 N.W.2d 810, 812 (Iowa 1983). *Fonken* approved the use of either of two different methods to analyze church property disputes pursuant to the dictates of the United States Supreme Court in *Watson v. Jones*, 80 U.S. (13 Wall.) 679, 20 L. Ed. 666 (1871) and *Jones v. Wolf*, 443 U.S. 595, 99 S. Ct. 3020, 61 L. Ed. 2d 775 (1979). *Id.* at 812-13, 816.

The first method of resolving church property disputes is the “*Watson* compulsory deference approach.” *Id.* at 816. Under this approach, “the decision of the highest authority in a hierarchical church is conclusive on the civil courts in church property disputes.” *Id.* A hierarchical church exists where a local church is subordinate to the authority of a higher church tribunal or adjudicatory body. *Watson*, 80 U.S. at 722-23, 20 L. Ed. at 674; *Fonken*, 339 N.W.2d at 812. The second method is the “neutral principles approach” pursuant to which church property disputes are resolved through the use of neutral principles of law affecting ownership. *Holmstrom v. Sir*, 590 N.W.2d 538, 540 (Iowa 1999) (citing *Fonken*, 339 N.W.2d at 813). The neutral principles approach promises nonentanglement and neutrality in relying “exclusively on objective, well-established concepts of trust and property law.” *Jones*, 443 U.S. at 603, 99 S. Ct. at 3025, 61 L. Ed. 2d at 784-85. This method entirely obviates the need for an analysis of the church’s form of government. *Id.* at 605, 99 S. Ct. at 3026, 61 L. Ed. 2d at 786.

Central District appears to argue the deference approach should apply because the church’s polity was converted to a hierarchical form when Freedom Church voted to transfer control of the church to the district. We first observe that both methods can be used to adjudicate church property disputes regardless of the church’s form of government. *Jones*, 443 U.S. at 602, 99 S. Ct. at 3025, 61 L. Ed. 2d at 784-85 (authorized use of neutral principles in resolving a hierarchical church property dispute); *Fonken*, 339 N.W.2d at 813-14, 816 (applied both approaches in adjudicating a hierarchical church property dispute). Furthermore, the district court concluded, and we agree, the EFCA is not a

hierarchical church. The EFCA is organized as an association of “autonomous but interdependent congregations of like faith.” Its governing documents reflect a congregational organization where each local church governs itself. We find the neutral principles approach is better-suited to the resolution of this church property dispute.

We accordingly apply neutral principles of contract law to answer the central question presented by this dispute: whether there was an enforceable agreement between the parties to transfer control of Freedom Church’s property to Central District. Freedom Church argues the arrangement between the parties did not constitute a contract or enforceable agreement because there was no binding offer and acceptance and the terms were ambiguous. Central District argues the district court was correct in finding there was an enforceable agreement.

All contracts must contain mutual assent. *Heartland Express, Inc. v. Terry*, 631 N.W.2d 260, 268 (Iowa 2001). The “mode of assent is termed offer and acceptance.” *Id.* (quoting *Anderson v. Douglas & Lomason Co.*, 540 N.W.2d 277, 285 (Iowa 1995)). An offer is a “manifestation of willingness to enter into a bargain” *Anderson*, 540 N.W.2d at 285 (quoting Restatement (Second) of Contracts § 24 (1981)). A binding contract requires an acceptance of the offer. *Heartland Express, Inc.*, 631 N.W.2d at 270 (citing *Magnusson Agency v. Pub. Entity Nat’l Co.-Midwest*, 560 N.W.2d 20, 26 (Iowa 1997)). Acceptance of the offer is indicated by a “manifestation of assent to the terms thereof made by the offeree in a manner invited or required by the offer.” *Id.* (quoting Restatement (Second) of Contracts § 50). Mutual assent is based on objective evidence, not

the hidden intent of the parties. *Schaer v. Webster County*, 644 N.W.2d 327, 338 (Iowa 2002) (citations omitted).

A contract is generally not found to exist when the parties agree to a contract on a basis to be settled in the future. *Whalen v. Connelly*, 545 N.W.2d 284, 293 (Iowa 1996). An agreement to agree to enter into a contract is of no effect unless all of the terms and conditions are agreed on and nothing is left to future negotiations. *Crowe-Thomas Consulting Group, Inc. v. Fresh Pak Candy*, 494 N.W.2d 442, 444-45 (Iowa Ct. App. 1992).

Upon our de novo review, we find the district court erred in concluding there was an enforceable agreement between Freedom Church and Central District. The objective evidence demonstrates Central District did not accept Freedom Church's offer to transfer governance and control of the congregation. After receiving Freedom Church's offer, Central District authorized its superintendent to "further investigate and evaluate and bring a report to the District Board January 17, 2002 whether we should take legal responsibility" for the church's property. Central District's superintendent, Calvin Swan, informed Freedom Church in the November 15, 2001 letter that acceptance of the congregation's offer was contingent on a final vote at the January 17, 2002, board meeting. A final vote on the transfer did not occur at the January 17, 2002, meeting. Instead, the board noted that "[d]etails are being worked on."

The actions of Freedom Church's members and pastor demonstrate the details of the agreement remained ambiguous throughout the parties' relationship. At one point, the congregation requested clarification from Central District regarding their relationship due to the ambiguity of the parties'

arrangement. Church members assumed control of the church would be returned to them at some point, while Central District believed it had the absolute right to control and dispose of Freedom Church's assets. The church continued to conduct its own daily operations, such as organizing church activities and services, paying bills, receiving donations, and accepting new members into the congregation, without interference from Central District. In addition, the church continued to exercise independent corporate functions, such as refinancing a loan and amending its articles of incorporation. The congregation did not always request permission from Central District before performing these tasks. As shown by the above facts, although the church received assistance, control really never passed or was assumed by Central District.

We conclude the objective evidence indicates the parties had an agreement to agree to enter into a contract with certain essential terms that were not agreed upon. An agreement to agree is not a binding contract. *Whalen*, 545 N.W.2d at 293. Therefore, the district court erred in finding the parties had an enforceable agreement to transfer governance and control of Freedom Church to Central District. The district court should have granted Freedom Church's request for a permanent injunction enjoining Central District from transferring and managing the assets of the church. We accordingly reverse the district court's denial of injunctive relief and remand for entry of an injunction consistent with this opinion.

REVERSED AND REMANDED.