

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2017 CA 0672

SAINT JAMES MISSION CHURCH-AIRPORT ROAD

VERSUS

ANNUAL CONFERENCE OF THE AFRICAN METHODIST EPISCOPAL  
CHURCH IN MISSISSIPPI AND LOUISIANA

**Judgment rendered December 21, 2017.**

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Appealed from the  
21<sup>st</sup> Judicial District Court  
in and for the Parish of Tangipahoa, Louisiana  
Trial Court No. 2015-623  
Honorable Charlotte H. Foster, Judge

\*\*\*\*\*

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HAMMOND, LA

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ATTORNEYS FOR  
PLAINTIFF-APPELLANT  
SAINT JAMES MISSION CHURCH-  
AIRPORT ROAD

ATTORNEY FOR  
DEFENDANT-APPELLEE  
ANNUAL CONFERENCE OF THE  
AFRICAN METHODIST EPISCOPAL  
CHURCH IN MISSISSIPPI AND  
LOUISIANA

\*\*\*\*\*

**BEFORE: GUIDRY, PETTIGREW, AND CRAIN, JJ.**

**PETTIGREW, J.**

In this case, plaintiff challenges the trial court's November 21, 2016 judgment denying plaintiff's rule to evict defendants from property that plaintiffs alleged they owned at the time. For the reasons that follow, we affirm.

**FACTS AND PROCEDURAL HISTORY**

This case concerns a dispute between a dissident local congregation, Saint James Mission Church-Airport Road ("Saint James"), and the African Methodist Episcopal Church ("AME"), the national church with which it had been affiliated for many decades, over the use of the church property located on Airport Road in Hammond. The Saint James congregation had worshiped at the Airport Road location continuously since its founding in 1925. According to the record, this case has a protracted history, including proceedings in the City Court of Hammond, the Eastern District of Louisiana, and the United States Fifth Circuit Court of Appeal.<sup>1</sup>

On July 15, 2011, Saint James sent a letter to Bishop Carolyn Tyler-Guidry of the 8th Episcopal District indicating its decision "to no longer be a part of the African Methodist Episcopal Organization and ... to disassociate from the denomination." The letter, which was signed by a majority of the Saint James congregation, further noted, "[f]rom this point on, our church name shall be returned to Saint James African Methodist Episcopal Mission Church."

At some point thereafter, on or before August 30, 2011, someone changed the locks on the Airport Road church building, prompting Saint James to retain Thomas J. Hogan, Jr. On behalf of Saint James, Mr. Hogan sent a letter, dated September 7, 2011, to Carlton Galmon, Sr. (the duly assigned pastor of the local society of members of the

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<sup>1</sup> By order of the trial court below, the appeal record in this matter was supplemented on August 22, 2017, with the records of these prior proceedings, which now form part of the record before us for review. Some of the facts and procedural history contained herein are taken from these prior cases. See **African Methodist Episcopal Church v. Saint James Mission Church**, (5th Cir. 2012) 2012WL1802460 (unreported decision), vacated by **African Methodist Episcopal Church v. Lucien**, 756 F.3d 788 (5th Cir. 2014).

AME who worship at the church in dispute), and to James Martin (a member of the AME who worships at the disputed church), requesting a copy of the new key to no avail.

At a special meeting held by Saint James on September 20, 2011, the following resolution, after being "duly acted upon and passed by a majority of the members present and voting," was adopted:

**WE THE MEMBERS** of Saint James AME Mission Church, Inc., Successor in interest to Saint James AME Mission Church, an unincorporated association, desire to clarify certain matters with respect to the ownership of immovable property which according to the public records of Tangipahoa Parish, Louisiana is owned by St[.] James African Methodist Episcopal Mission Church Inc. and

**WHEREAS** it has come to our attention that on November 3, 1924, the Trustees of St[.] James A.M.E. Mission, a religious unincorporated association, executed a warranty deed which is recorded [in the] Records of Tangipahoa Parish, Louisiana ("the deed") and

**WHEREAS** the deed purportedly conveyed title to immovable property to St. James African Methodist Episcopal Church, Inc[.], a corporation duly incorporated under the laws of the State of Louisiana ("the corporation") and

**WHEREAS** the charter of the corporation was filed into the Records of Tangipahoa Parish ... and

**WHEREAS** the charter of the corporation was not filed with the Secretary of State of the State of Louisiana and

....

**WHEREAS** the corporation never came into existence and

**WHEREAS** the original term of the corporation according to the charter was for a period of fifty years and

**WHEREAS** fifty years have passed since the date the charter was filed into the Records ... and

**WHEREAS** no action has been taken ... either to extend the original term ... or to file the necessary papers with the Secretary of State ... and

**WHEREAS** the members have concluded that the name of the congregation formerly known either as St[.] James A.M.E. Mission or as St. James African Methodist Episcopal Church Inc. shall henceforth be known as

**Saint James Mission Church-Airport Road**, an unincorporated association

....

**RESOLVED**, that the Trustees are authorized to take whatever action necessary to establish title to our immovable property in the name of **Saint James Mission Church-Airport Road**.

Thereafter, on September 21, 2011, Saint James posted a **NOTICE TO VACATE** on the church building containing the following notification:

This is to notify each of you that the purpose of your occupancy of the premises owned by **SAINT JAMES MISSION CHURCH-AIRPORT ROAD** and located at 43483 S Airport Rd Hammond LA 70403 has ceased and you are hereby ordered to vacate the premises and to return the keys to the building to the undersigned no later than 5:00 p.m. Monday, September 26, 2011.

A copy of the notice was also mailed to the agent for service of process for the Annual Conference of the African Methodist Episcopal Church in Mississippi and Louisiana (the "Annual Conference," a regional division of AME), Pastor Galmon, Mr. Martin, Bishop Tyler-Guidry, and Reverend Otis Lewis (the duly assigned presiding elder).

On September 27, 2011, Saint James first filed a Rule to Evict Occupants (the "eviction proceeding" or the "rule to evict") in the City Court of Hammond. Named as defendants-in-rule were the Annual Conference, Pastor Galmon, Mr. Lewis, and Mr. Martin. On October 24, 2011, roughly four weeks after the eviction proceeding was filed in city court, AME removed that action to the Eastern District of Louisiana, Civil Action No. 11-2660, on behalf of the defendants-in-rule, asserting diversity jurisdiction.

Two days before it removed the Saint James' eviction proceeding from state court, however, AME had instituted the second proceeding (the "federal action") by filing a petition for declaratory judgment and injunctive relief in the same federal district court, Civil Action No. 11-2656. In the federal action, AME named as defendants Saint James, its attorney (Thomas J. Hogan, Jr.), and three of its trustees (Willard Lucien, Jr., George Gaten, Sr., and Roger Kennedy), alleging diversity jurisdiction and federal question jurisdiction, based on the First and Fourteenth Amendments. AME sought, inter alia, (1) a declaration that the defendants' acts in purporting to transfer title to the property and in obstructing AME's access to it were illegal, and (2) an injunction prohibiting further interference.

Saint James filed a motion seeking remand to the City Court of Hammond based on lack of diversity of citizenship and the absence of a federal question. On May 16, 2012, the U.S. District Court denied the motion to remand. In the meantime, Saint James had answered AME's complaint in the federal action and filed a counterclaim in which it sought (1) a declaration that it (Saint James) was the rightful owner of the property and (2) damages for AME's interference.

Thereafter, on March 6, 2013, AME moved for summary judgment in Federal Civil Action No. 11-2656 and for dismissal of Federal Civil Action No. 11-2660. Saint James opposed the motion and filed a cross motion summary judgment in its favor on the issue of the ownership of the property. AME filed a motion to strike Saint James' cross motion for summary judgment as untimely.

Following a hearing on said motions, the U.S. District Court issued written reasons and an order on April 30, 2013, granting AME's motion for summary judgment, dismissing the eviction proceeding in Civil Action No. 11-2660, denying Saint James' cross motion for summary judgment, and dismissing AME's motion to strike as moot. On May 1, 2013, the Court signed a judgment as follows:

**IT IS ORDERED, ADJUDGED AND DECREED** that there be judgment in favor of [AME] and against Willard Lucien, Jr., Roger Kennedy, Saint James Mission Church, George Gaton, Sr., and Thomas J. Hogan (collectively, "St. James"), in Civil Actions Nos. 11-2656 and 11-2660, dismissing these cases with prejudice, each party to bear its own costs;

**IT IS FURTHER DECLARED** that St. James' actions in transferring property to themselves and others acting in concert with them were ineffective and void due to a lack of legal authority and capacity to convey the property;

**IT IS FURTHER DECLARED** that St. James, and those acting in concert with them, are unlawfully, and without any legal authority, obstructing the AME Church, its assigned pastor and representatives, and members of its local society to the use and control of the land, building and pulpit of St. James African Methodist Episcopal Mission Church in Hammond, Louisiana;

**IT IS FURTHER DELCARED** that St. James, and those acting in concert with them, have no right of ownership, possession, or control of the property that was owned or in the possession and control of St. James African Methodist Mission Church-Airport Road, in Hammond, Louisiana, including but not limited to its land, buildings, furnishings, church records, and bank accounts.

Thereafter, Saint James timely appealed this judgment.

On June 30, 2014, the U.S. Court of Appeals for the Fifth Circuit reversed the U.S. District Court's denial of Saint James' motion to remand the eviction proceeding, remanded the eviction proceeding (Civil Action No. 11-2660) to the City Court of Hammond, vacated the May 1, 2013 judgment, and stayed all other claims in the federal action (Civil Action No. 11-2656) during the pendency of the eviction proceeding.

On February 10, 2015, the judge for the City Court of Hammond held a hearing on AME's pending exceptions, rendering judgment maintaining AME's exception raising the objection of lack of subject matter jurisdiction and transferring the action to the 21st Judicial District Court.<sup>2</sup> According to the record, the parties appeared before the 21st Judicial District Court on September 14, 2015, at which time they agreed to "submit on pleadings and exhibits filed and [the] Court will not accept any supplemental exhibits."<sup>3</sup> On September 19, 2016, the parties again appeared in court to hear the district court's reasons for judgment. In a judgment signed on November 21, 2016, the district court

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<sup>2</sup> AME's exceptions included an objection to any adjudication of the ownership of the church property in a summary eviction proceeding.

<sup>3</sup> At oral arguments before this court, counsel for Saint James stated that the parties appeared before the district court on September 14, 2015, and entered into a stipulation whereby the issue of ownership would be decided based on the record of all of the prior proceedings, *i.e.*, the proceedings of the City Court of Hammond, the Eastern District of Louisiana, and the United States Fifth Circuit Court of Appeal. Counsel for AME denied any such agreement. And, although counsel for Saint James quoted from the purported stipulation at oral arguments, the only reference to the stipulation appears in a brief filed by Saint James in the district court on December 15, 2015. In said brief, Saint James alleged as follows: "On September 14, 2015, the parties appeared in this Court and entered a stipulation. Pursuant to the stipulation, Saint James caused the entire record of the United States District Court proceedings to be filed into the record on November 23, 2[0]15." As appellant, Saint James is charged with the responsibility of completeness of the record for appellate review, and the inadequacy of the record is imputable to Saint James. **Bouquet v. Williams**, 2016-0134, p. 5 (La. App. 1 Cir. 10/28/16), 206 So.3d 232, 236, writs denied, 2016-2077, 2016-2082 (La. 1/9/17), 214 So.3d 870, 871. An appellate court must render any judgment that is just, legal, and proper upon the record on appeal. La. Code Civ. P. art. 2164. However, as an appellate court, we have no jurisdiction to review evidence that is not in the record on appeal, and we cannot receive new evidence. **Gillio v. Hanover American Insurance Company**, 2016-0640, p. 3 n.3 (La. App. 1 Cir. 1/31/17), 212 So.3d 588, 591 n.3, writ denied, 2017-0393 (La. 4/24/17), 219 So.3d 1098. Accordingly, because there is no stipulation in the record, we are constrained to render our judgment based on the record before us.

denied Saint James' rule to evict and dismissed the matter with prejudice.<sup>4</sup> This appeal by Saint James followed.

### DISCUSSION

The sole assignment of error raised on appeal by Saint James concerns the ownership of the property in question. Saint James argues that "[t]itle to the property has at all times been vested in Saint James in its capacity as [an] unincorporated association presently known as Saint James Mission Church-Airport Road without regard to that congregation's current or former connection to the AME." Saint James further posits that there is simply "no evidence that Saint James ever intended to acquire immovable property for AME or to transfer title of its immovable property to AME."

We note that in its September 19, 2016 written reasons for judgment, the district court addressed the issue of ownership of the property in question, finding "the owner of the property in question is Saint James African Methodist Episcopal Church subject to the tenants and [policies] of the AME church through the BOOK OF DISCIPLINE." No finding or ruling on this issue, however, is mentioned or contained in the November 21, 2016 judgment before us on review. It is well-recognized that reasons for judgment form no part of the official judgment and that appeals are taken from judgments, not reasons for judgment. See Doe v. Breedlove, 2004-0006, p. 9 (La. App. 1 Cir. 2/11/05), 906 So.2d 565, 571. Regardless of the trier of fact's reasons, if a judgment is correct, it should be affirmed. Bergeron v. Watkins, 98-0717, p. 5 (La. App. 1 Cir. 3/2/99), 731 So.2d 399, 402.

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<sup>4</sup> We note the district court's language in its November 21, 2016 judgment, "Petitioner's Rule to Evict Occupants is DENIED[,]" and "Petitioner's Rule to Evict Occupants be and is hereby dismissed with prejudice." We recognize that although it would have been preferable if the party's name, *i.e.*, Saint James, had been used instead of "petitioner," this judgment is a final and appealable judgment. This court's appellate jurisdiction extends only to "final judgments." La. Code Civ. P. art. 2083; Carter v. Williamson Eye Center, 2001-2016, p. 3 (La. App. 1 Cir. 11/27/02), 837 So.2d 43, 44. A final judgment shall be identified as such by appropriate language. La. Code Civ. P. art. 1918. Although the form and wording of judgments are not sacramental, Louisiana courts require that a judgment be "precise, definite and certain." These determinations should be evident from the language of a judgment without reference to other documents in the record. Laird v. St. Tammany Parish Safe Harbor, 2002-0045, p. 3 (La. App. 1 Cir. 12/20/02), 836 So.2d 364, 365-366. Based on the judgment before us, the caption as it appears on said judgment, and applicable law, it is easily discernable that the "petitioner" in this case is Saint James. See also La. Code Civ. P. arts. 851, *et seq.* concerning pleadings.

In response to Saint James' appeal, the Annual Conference asserts that the only issue before us on review is the district court's summary proceeding judgment that denied and dismissed Saint James' rule to evict. The Annual Conference submits that the "[i]ssues of ownership and rights of the parties concerning the property at issue were fully litigated by the parties in the federal courts and the federal judgment is *res judicata*." The Annual Conference argues further that a summary eviction proceeding is not a proper or appropriate proceeding to determine title or to resolve issues of a disputed title. Finally, citing La. Code Civ. Proc. art. 4705, the Annual Conference contends that ownership of immovable property cannot be decided in a summary proceeding. We have reviewed the record before us and agree with the Annual Conference that the only issue before us on appeal is whether the district court erred in denying and dismissing Saint James' rule to evict.

Regarding eviction proceedings, this court, in **Vicknair v. Watson-Pitchford, Inc.**, 348 So.2d 695 (La. App. 1 Cir. 1977), stated:

LSA-C.C.P. Articles 4701-4705, inclusive, provide a summary process for eviction of a lessee by a lessor and of an occupant by an owner, because the lease has ended due to expiration of its term, or for other lawful cause, or where the purpose of the occupancy has ceased in the case of an occupant.

It is well settled that a summary action for eviction of a tenant or lessee (formerly authorized by LSA-R.S. 13:4911-4926, inclusive), presently, LSA-C.C.P. Articles 4701-4705, involves the single issue of whether the lessor is entitled to possession of the leased premises. **Roussel v. Dalche**, 158 La. 742, 104 So. 637 (1925), and authorities therein cited. See also **Smith v. Smith**, 156 So.2d 278 (La. App. 4th Cir. 1963). Equally well settled is the rule that a lessee cannot defeat his lessor's right to summary action for eviction by injecting therein issues foreign to the one issue involved, and thereby convert the summary proceeding into an ordinary proceeding. **Roussel v. Dalche**, above.

**Vicknair**, 348 So.2d at 696.

Furthermore, in **Matthews v. Horrell**, 2006-1973 (La. App. 1 Cir. 11/7/07), 977 So.2d 62, this court succinctly addressed the history of Louisiana's statutory scheme for eviction and offered support for the interpretation of the applicable articles whereby issues of ownership and/or the right to possession of immovable property are not to be litigated in eviction proceedings:



Louisiana's statutory scheme for eviction (LSA-C.C.P. art. 4701, et seq.) was designed to give landowners the right to oust occupants without the burdensome expense and delay required by a petitory action. Eviction by summary procedure is available for the eviction of an "occupant" after the purpose of the occupancy has ceased.

Thus, two elements must be established by a plaintiff to prevail in an action for eviction: (1) the defendant's status as an occupant, and (2) the cessation of the purpose of the occupancy.

....

Furthermore, the historical background of the eviction action in Louisiana reinforces our interpretation. The precursor to the Louisiana Code of Civil Procedure eviction articles was Act No. 298 of 1938, commonly known as the "Share Croppers Act." See **DuVIC v. Home Finance Service**, 23 So.2d 790, 791 (La. App. Orl. 1945). In **DuVIC** it was noted that the remedy granted by Act No. 298 of 1938 is limited to cases where the occupant sought to be ejected is in illegal possession. The **DuVIC** court stated, "Act No. 298 of 1938 grants to owners of property a summary remedy of ejectment in cases ... and provides a speedy method for the ouster of illegal possessors, **thus relieving landowners of the burdensome expense and delay occasioned by a petitory action**, in matters where the possessor has no semblance of claim to title or possession." **DuVIC**, 23 So.2d at 791-792. [Emphasis added.]

The concept that eviction is a remedy available against illegal possessors of immovable property remains a part of the current eviction provisions, as reflected by La. Code Civ. P. art. 4731(A), which provides in pertinent part: "If the lessee or occupant fails to comply with the notice to vacate required under this Title, or if the lessee has waived his right to notice to vacate by written waiver contained in the lease, **and has lost his right of occupancy for any reason**, the lessor or owner, or agent thereof, may cause the lessee or occupant to be cited summarily by a court of competent jurisdiction to show cause why he should not be ordered to deliver possession of the premises to the lessor or owner." (Emphasis added.)

Further, the eviction procedure is limited by La. Code Civ. P. art. 4705, which provides in part that "nothing in this Title shall be construed to conflict with the provisions of Articles 3651 through 3664." Since La. Code Civ. P. arts. 3651-3664 govern petitory and possessory actions, **it must be concluded that questions regarding the ownership of immovable property or the right to possession of immovable property were not intended by the legislature to be litigated in eviction proceedings.** [Emphasis added.]

**Matthews**, 2006-1973, pp. 13-21, 977 So.2d at 72, 76-77 (citations and footnotes omitted).

As correctly pointed out by AME in its brief, Saint James has presented no argument in its appellant brief challenging the correctness of the district court's November 21, 2016 judgment. The eviction proceeding was the only issue before the

district court and is the only issue before us on appeal. Based on our thorough review of the record below and the applicable jurisprudence and law, we find no error in the district court's judgment denying Saint James' rule to evict and dismissing same, with prejudice.

### **CONCLUSION**

For the above and foregoing reasons, we affirm the district court's November 21, 2016 judgment. We assess all costs associated with this appeal against plaintiff-appellant, Saint James Mission Church-Airport Road.

**AFFIRMED.**