

STATE OF MICHIGAN
COURT OF APPEALS

EUGENE ROGERS and JEANNETTE
CAMPBELL ROGERS,

UNPUBLISHED
June 27, 2017

Plaintiffs-Appellants,

v

No. 331969
Oakland Circuit Court
LC No. 2015-150293-CZ

ST. JOHN UNITED METHODIST CHURCH,
LESTER MAGNUM, BRENDA STREET,
RANDOLPH WHITER, MICHAEL DUNSTAN,
JOHN HALE, MELANIE CAREY, TARA
SUTTON, DEBORAH L. KIESEY, WENDELIN
MCNEARY, TONY JOHNSON, LINDA
WALKER, JUANITA CRUMP, and LUCY
PAYNE,

Defendants-Appellees.

Before: MARKEY, P.J., and METER and SHAPIRO, JJ.

PER CURIAM.

Plaintiffs, Eugene Rogers and Jeannette Campbell Rogers, appeal as of right the order granting summary disposition in favor of defendants. We reverse and remand.

This appeal arises out of donations made by plaintiffs. According to plaintiffs' complaint, Eugene was the former chair of the board of trustees for the church and held that position for over 12 years. The complaint alleged that plaintiffs donated over \$41,000 into a restricted fund during Eugene's time as chair and that the fund's purpose "was to raise money to expand the Church and build a fellowship hall." The complaint further alleged that the money donated by plaintiffs was not used to build a fellowship hall, that the funds were used for other purposes without plaintiffs' permission, and that plaintiffs unsuccessfully asked for return of the money numerous times. The complaint contained six counts: (1) common-law conversion, (2) statutory conversion, (3) breach of contract, (4) breach of quasi-contract, (5) fraud and misrepresentation, and (6) civil conspiracy.

Defendants moved for summary disposition under MCR 2.116(C)(4), and the trial court granted the motion and dismissed the complaint. On appeal, plaintiffs argue that the trial court erred in granting summary disposition. "This Court reviews decisions on motions for summary

disposition de novo.” *Durcon Co v Detroit Edison Co*, 250 Mich App 553, 556; 655 NW2d 304 (2002). “Summary disposition is appropriate under MCR 2.116(C)(4) when a court lacks jurisdiction over the subject matter of an action.” *Hillenbrand v Christ Lutheran Church of Birch Run*, 312 Mich App 273, 277; 877 NW2d 178 (2015). “When viewing a motion under MCR 2.116(C)(4), this Court must determine whether the pleadings demonstrate that the defendant was entitled to judgment as a matter of law, or whether the affidavits and other proofs show that there was no genuine issue of material fact.” *Weishuhn v Catholic Diocese of Lansing*, 279 Mich App 150, 155; 756 NW2d 483 (2008) (quotation marks and citation omitted). In addition, “[t]his Court . . . reviews constitutional issues de novo on appeal.” *Id.*

“It is well settled that courts, both federal and state, are severely circumscribed by the First and Fourteenth Amendments to the United States Constitution and art 1, § 4 of the Michigan Constitution of 1963 in resolution of disputes between a church and its members.’ ” *Pilgrim’s Rest Baptist Church v Pearson*, 310 Mich App 318, 323; 872 NW2d 16 (2015), quoting *Maciejewski v Breitenbeck*, 162 Mich App 410, 413-414; 413 NW2d 65 (1987). Jurisdiction over disputes between churches and their members “is limited to property rights which can be resolved by application of civil law.” *Pilgrim’s Rest Baptist Church*, 310 Mich App at 323 (quotation marks and citation omitted). A court loses jurisdiction over disputes when resolution requires the court to entertain “questions of religious doctrine or ecclesiastical polity . . .” *Id.* (quotation marks and citation omitted). As this Court explained:

Religious doctrine refers to ritual, liturgy of worship and tenets of the faith. Polity refers to organization and form of government of the church. Under the ecclesiastical abstention doctrine, apparently derived from both First Amendment religion clauses, civil courts may not redetermine the correctness of an interpretation of canonical text or some decision relating to government of the religious polity. [*Id.* (quotation marks and citations omitted).]

In this case, resolution of plaintiffs’ claims does not require a court to analyze questions of religious doctrine or ecclesiastical polity. The claims are based on the alleged facts that the restricted fund had a designated purpose of expanding the church and building a fellowship hall, that plaintiffs donated money into the fund for that purpose, and that plaintiffs’ donations were not used for the designated purpose. Looking to the substance of the specific claims, the conversion claims add additional allegations that plaintiffs were entitled to return of their money, asked for return of the money, and did not receive the money. The contract claims add the allegation that there was an agreement that the donated money would be used for the sole purpose of building a fellowship hall. The fraud claim adds the allegation that defendants made a material misrepresentation that induced them to donate the money. Finally, the civil conspiracy claim is based on the above allegations. Under the alleged facts, the dispute does not require a court to analyze questions of religious doctrine or ecclesiastical polity. Rather, resolving the issues merely involves property rights and applying civil law. See *id.* at 323, 327.¹

¹ *Dlaikan v Roodbeen*, 206 Mich App 591; 522 NW2d 719 (1994), which defendants cite in support of their position, is distinguishable in that in *Dlaikan*, the claims, involving a decision by

On appeal, defendants argue that “[a] dispute arose as to how the monies in Building Fund II should be managed and used.” This argument seems to suggest that the dispute is over how the money should be used within the stated purpose of the fund. However, defendants offered no affidavits or other proofs indicating that the money was used within the restricted purpose of the fund or otherwise indicating that the church was exercising its judgment while waiting to use the donations in accordance with the purposes of the fund. Defendants also state that the money donated by plaintiffs had not yet been used, given that the fund contained well over the amount plaintiffs donated. However, plaintiffs alleged that their donated money was used for other purposes. Plaintiffs’ complaint, which defendants did not contradict with affidavits or other proofs, was sufficient to survive defendants’ motion for summary disposition at this stage in the proceedings.²

Reversed and remanded for further proceedings. We do not retain jurisdiction.

/s/ Jane E. Markey

/s/ Patrick M. Meter

/s/ Douglas B. Shapiro

the pastor of a church to deny school admission to the plaintiffs’ children, were “so entangled in questions of religious doctrine or ecclesiastical polity that the civil courts lack jurisdiction to hear them.” *Id.* at 594. The instant case does not involve delving into ecclesiastical polity. Defendants also cite an unpublished and thus nonbinding case, *McDonald v Macedonia Missionary Baptist Church*, unpublished opinion per curiam of the Court of Appeals, issued March 27, 2003 (Docket No. 231627), but that case, too, is distinguishable because it involved decisions over when and where to build a new church building, see *id.*, unpub op at 2-3, not whether funds donated for a specific purpose were being used for a different purpose.

² We express no opinion regarding whether summary disposition for defendants might be appropriate as the case proceeds.