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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA15-470

Filed: 17 November 2015

Sampson County, No. 13 CVS 333

AFRICAN METHODIST EPISCOPAL ZION CHURCH and SMITH CHAPEL
AFRICAN METHODIST ZION CHURCH, INC., Plaintiffs,

v.

WILLIAM DONALD PARKER, HARRY TRUMAN PARKER, THOMAS PARKER,
JERALDINE DONATIEN, and; Trustees of SMITH CHAPEL METHODIST
CHURCH, Defendants.

Appeal by plaintiffs from orders entered 6 January 2014 by Judge Michael J.
Foghludha and 20 November 2014 by Judge W. Douglas Parsons in Sampson County
Superior Court. Heard in the Court of Appeals 6 October 2015.

Blue Stephens & Fellers LLP, by Dhamian A. Blue, for plaintiffs-appellants.

Warrick, Bradshaw & Lockamy, P.A., by Justin L. Lockamy, for defendants-appellees.

ZACHARY, Judge.

Where there was “more than a scintilla of evidence” in support of defendants’ case when viewed in the light most favorable to defendants, the trial court did not err in denying plaintiffs’ motion for judgment notwithstanding the verdict. Where the matter was ultimately heard by a jury, we decline to review the denial of plaintiffs’ motion for summary judgment.

I. Factual and Procedural Background

African Methodist Episcopal Zion Church (AME Zion) is a Methodist religious organization established in 1796. Its governing rules and doctrines are contained in “The Book of Discipline of the African Methodist Episcopal Zion Church” (the Book of Discipline). The Book of Discipline grants AME Zion the rights to all real property and other assets owned by a member church.

Since 1964, Smith Chapel African Methodist Zion Church, Inc. (Smith Chapel) has been a member of AME Zion. Throughout its history, Smith Chapel accepted pastors who were appointed by AME Zion. By 1987, Smith Chapel regularly paid assessments to AME Zion.

In 1962, a deed was recorded in Book 756, Page 569 of the Sampson County Registry, which conveyed the church building and real property located at 7485 Old Mintz Highway, Garland, Sampson County, North Carolina (the property) to the Trustees of Smith Chapel Methodist Church. Although the congregation of Smith Chapel voted in 1981 to formally deed the property to Smith Chapel AME Zion Church, this was never completed. Subsequently, a deed was executed purporting to convey the property to AME Zion on 11 July 2011.

On 27 February 2013, Smith Chapel denied the AME Zion-appointed pastor access to the property. Thereafter, William Donald Parker, Harry Truman Parker,

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Thomas Parker, and Jeraldine Donatien (collectively, defendants) began congregating as the Smith Chapel Methodist Church.

On 26 March 2013, AME Zion and Smith Chapel (collectively, plaintiffs) brought an action for declaratory judgment and injunctive relief. Plaintiffs specifically sought a declaratory judgment that plaintiffs owned the property in fee simple. In addition, plaintiffs requested a temporary restraining order enjoining defendants from continuing their unauthorized use of the property, from publicizing that Smith Chapel was no longer affiliated with AME Zion, and from denying the pastor access to the property. On 10 April 2013, the trial court granted plaintiffs' request for temporary and preliminary injunctive relief until trial.

On 24 April 2013, the Trustees of Smith Chapel Methodist Church filed a motion to intervene as party defendants. On 25 April 2013, the Trustees filed a complaint upon intervention, asserting a claim to quiet title to the property, and also seeking a declaratory judgment setting aside a general warranty deed that conveyed the property from Smith Chapel Methodist Church to Smith Chapel AME Zion Church.

On 13 December 2013, plaintiffs filed a motion for summary judgment. On 16 December 2013, the motion was heard, and on 22 December 2013, the trial court denied it.

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At the close of the plaintiffs' evidence at trial, and again at the close of all of the evidence, plaintiffs moved for directed verdict. Both motions were denied. The jury returned a verdict that Smith Chapel was not in a hierarchical relationship with AME Zion with respect to property matters, that Smith Chapel was not in an ecclesiastical relationship with AME Zion with respect to property matters, that AME Zion did not own the property in fee simple, and that AME Zion was not a beneficiary of a trust interest in the property. The trial court accordingly entered judgment in favor of defendants. After the jury was dismissed, plaintiffs gave notice of appeal, and filed a motion for judgment notwithstanding the verdict (JNOV) and for new trial. The trial court denied plaintiffs' motions.

From the orders denying plaintiffs' motions for summary judgment, JNOV, and new trial, plaintiffs appeal. Plaintiffs do not appeal from the judgment itself.

II. Summary Judgment

As an initial matter, although plaintiffs filed notice of appeal from the denial of their summary judgment motion, that order is no longer reviewable. Our Supreme Court has explained that "[t]he purpose of summary judgment is to bring litigation to an early decision on the merits without the delay and expense of a trial when no material facts are at issue." *Harris v. Walden*, 314 N.C. 284, 286, 333 S.E.2d 254, 256 (1985). This purpose cannot be served after a case has proceeded to trial and has been determined on the merits by the judge or jury. *Id.*

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To grant a review of the denial of the summary judgment motion after a final judgment on the merits, however, would mean that a party who prevailed at trial after a complete presentation of evidence by both sides with cross-examination could be deprived of a favorable verdict. This would allow a verdict reached after the presentation of all the evidence to be overcome by a limited forecast of the evidence. In order to avoid such an anomalous result, we hold that the denial of a motion for summary judgment is not reviewable during appeal from a final judgment rendered in a trial on the merits.

Id. Accordingly, even if plaintiffs had argued the denial of their motion for summary judgment on appeal, we would decline to review it.

III. Standard of Review

“On appeal the standard of review for a JNOV is the same as that for a directed verdict, that is whether the evidence was sufficient to go to the jury.” *Tomika Invs., Inc. v. Macedonia True Vine Pentecostal Holiness Church of God, Inc.*, 136 N.C. App. 493, 498-99, 524 S.E.2d 591, 595 (2000). A motion for JNOV “must be granted if the evidence when taken in the light most favorable to the non-movant is insufficient as a matter of law to support a verdict in favor of the non-movant.” *Poore v. Swan Quarter Farms, Inc.*, 94 N.C. App. 530, 532, 380 S.E.2d 577, 578 (1989) (citations omitted), *disc. review denied*, 326 N.C. 50, 389 S.E.2d 94 (1990). The evidence is sufficient to withstand a motion for JNOV “if there is more than a scintilla of evidence supporting each element of the non-movant’s case.” *Id.* at 532-33, 380 S.E.2d at 578 (citations omitted).

IV. Judgment Notwithstanding the Verdict

In their sole argument on appeal, plaintiffs contend that the trial court erred in denying their motion for JNOV. We disagree.

At issue is whether AME Zion has an ownership interest, either in fee or in trust, to the property. Plaintiffs contend that they produced “overwhelming and uncontroverted” evidence at trial that Smith Chapel was a member of AME Zion, that the 2011 deed to AME Zion was valid, and that for these reasons AME Zion was the owner of the property. The standard of review on a directed verdict or JNOV is not, however, whether there was evidence in favor of the movant, but whether there was insufficient evidence in favor of the non-movant, taken in the light most favorable to the non-movant. *See Poore v. Swan Quarter Farms, Inc.*, 94 N.C. App. at 532, 380 S.E.2d at 578. For purposes of a directed verdict, and by extension a JNOV, “the determination of whether a given factual dispute requires submission to a jury must be guided by the substantive evidentiary standards that apply to the case[.]” *Scarborough v. Dillard's, Inc.*, 363 N.C. 715, 721, 693 S.E.2d 640, 644 (2009) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255, 91 L. Ed. 2d 202, 216 (1986)).

We have previously addressed the issue of real property ownership between a member church and its denomination. In *Looney v. Community Bible Holiness Church*, for example, we noted:

While the civil courts have no jurisdiction over and no concern with purely ecclesiastical questions and

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controversies due to constitutional guarantees of freedom of religious profession and worship, the courts do have jurisdiction to determine property rights which are involved in, or arise from, a church controversy. *See Atkins v. Walker*, 284 N.C. 306, 200 S.E.2d 641 (1973).

Our Supreme Court distinguished connectional or hierarchical churches from congregational churches in *Simmons v. Allison*, 118 N.C. 763, 24 S.E. 716 (1896). Connectional churches are governed by large bodies and individual congregations bear the same relation to the governing body as counties bear to the State. *Id.* Congregational churches are independent republics, governed by the majority of its members and subject to control or supervision by no higher authority. *Id.* Although congregational churches often associate together for mission purposes, these associations are strictly voluntary and have no governmental authority over the individual congregations. *Id.*

As a general rule the parent body of a connectional church has the right to control the property of local affiliated churches, and, as a corollary, this right will be enforced in civil courts. *A.M.E. Zion Church v. Union Chapel A.M.E. Zion Church*, 64 N.C. App. 391, 308 S.E.2d 73 (1983), *cert. denied*, 310 N.C. 308, 312 S.E.2d 649 (1984). However, a local church may have retained sufficient independence from the general church so that it reserved its right to withdraw at any time, and, presumably take along with it whatever property it independently owned prior to and retained during its limited affiliation with the general church. *Id.*

Looney v. Cmty. Bible Holiness Church, 103 N.C. App. 469, 473-74, 405 S.E.2d 811, 813 (1991). In *Looney*, the plaintiffs, a denominational church, brought action against the defendant, a local member church, to determine whether the defendant gave up its right to own and control local church property by affiliating with the plaintiff

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denomination. At trial, the jury determined that the plaintiff denomination was a connectional church, but that the defendant was not in a connectional church relationship with the plaintiffs with respect to property matters, and the trial court declared defendant to be sole owner of the disputed church property. Plaintiffs appealed the denial of their motions for directed verdict and JNOV. *Id.* at 470-71, 405 S.E.2d at 811-12.

On appeal in *Looney*, this Court noted, as stated above, that the threshold issue is whether a church is connectional, giving it the right to control property decisions of local member churches, or congregational. However, we also noted that a church, despite being connectional, may remain congregational with respect to real property. Reviewing the evidence in that case in the light most favorable to the non-movant defendant, we examined three central points. First, we noted that the defendant's predecessor was affiliated with the plaintiff denomination from 1955 to 1988. Second, the plaintiff denomination's discipline "manifest[ed] an implied assent of local churches to denominational control of local church property. This evidence, if not contradicted, would make the plaintiffs' case." *Id.* at 474, 405 S.E.2d at 813. Third, we noted that the property transactions involved deeds "to trustees of, or for, the local church, not to the denominational church or to trustees of, or for, the denominational church." *Id.* We held that this conflicting evidence "created a jury question as to whether *as to church property* the local church intended to establish a connectional

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relationship with the denominational church.” *Id.* at 474, 405 S.E.2d at 813-14 (citations omitted) (emphasis in original). We ultimately affirmed the trial court’s denial of plaintiffs’ motions for directed verdict and JNOV.

We considered similar facts in *Fire Baptized Holiness Church of God of the Americas, Inc. v. McSwain*, 134 N.C. App. 676, 518 S.E.2d 558 (1999). In that case, as in *Looney*, the plaintiff denomination filed a complaint against the defendant local church, seeking a declaration that the plaintiff was the owner in fee simple of property then in possession of the local church. As in *Looney*, the jury determined that the plaintiff denomination was a connectional church, but that the defendant was not in a connectional relationship with respect to property matters. Judgment was entered in favor of the defendant, and plaintiff appealed the denial of its motions for directed verdict and JNOV. *Id.* at 677-78, 518 S.E.2d at 558-59.

On appeal of *Fire Baptized*, we cited to *Looney* for the premise that even a church in a generally connectional relationship may nonetheless remain independent for the specific purpose of property matters. *Id.* at 680-81, 518 S.E.2d at 560. Unlike in *Looney*, however, the defendant church in *Fire Baptized* “never owned any property before it was associated with the denomination.” *Id.* at 681, 518 S.E.2d at 560. That said, deeds involving the defendant designated both the plaintiff denomination and the defendant local church. The defendant argued that “the lack of specificity in the deeds, which named both the denomination and the [defendant] church as the

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grantees of church property, fails to demonstrate the intent of the grantor and that this question was properly resolved by the jury.” *Id.* at 681, 518 S.E.2d at 561. We agreed, holding that the deeds “do not make these required specifications. There is no mention of the purpose of the property or any reference to the customs and usages of the denomination. Instead, the deeds simply include the names of both the denomination and the [defendant] church as grantees.” *Id.* at 682, 518 S.E.2d at 561. We further noted that the deeds were not recorded as required in the plaintiff denomination’s book of rules, and that evidence of the defendant’s decision to move into a new sanctuary did not meet with the plaintiff’s approval. “In fact, the denomination clearly expressed its *disapproval* of the [defendant] church’s plan to acquire the property now in dispute[.]” *Id.* (emphasis in original). We held that, despite the evidence of the connectional relationship which, “if not contradicted, would make the plaintiffs’ case[.]” the evidence was rebutted, creating an issue for the jury. *Id.* We affirmed the trial court’s denial of plaintiffs’ motions for directed verdict and JNOV.

In the instant case, the facts are even more pronounced. Unlike in *Looney* and *Fire Baptized*, where the jury found the existence of a connectional relationship between plaintiffs and defendants, the jury in the instant case found no such relationship. Specifically, the jury was asked (1) whether Smith Chapel was “in a hierarchical relationship with the plaintiff AME Zion denomination with respect to

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property matters[.]” (2) whether Smith Chapel was “in an ecclesiastical relationship with the plaintiff AME Zion denomination with respect to property matters[.]” (3) whether AME Zion owned the property in fee simple, and (4) whether AME Zion owned the property as the beneficiary of a trust. The jury answered “No” on all points.

Even assuming a connectional relationship existed, however, as we stated in *Looney* and *Fire Baptized*, contradictory evidence may overcome the presumption that plaintiffs had a right of control over defendants’ property decisions.

Defendants initially highlight several items of evidence in support of the contention that Smith Chapel has remained independent from AME Zion with respect to real property matters. First, defendants refer to the testimony of Thomas Parker and William Donald Parker, together with the affidavit of Dorothy Boone, as demonstrating that Smith Chapel was not in a relationship with AME Zion with respect to real property matters in 1962. In addition, defendant William Donald Parker testified at trial that the grantors of the 1962 deed did not intend to convey the property to AME Zion or create a trust in the property for the benefit of AME Zion. Defendants also emphasize the contrast between the 1962 deed concerning Smith Chapel, which defendants contend did not explicitly convey real property to AME Zion, and those of local churches Saint Thomas and Sam Springs, which deeded property to AME Zion explicitly. Finally, defendants call attention to several instances in which Smith Chapel handled real property matters through the

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“Trustees of Smith Chapel Methodist Church” independently of AME Zion and without the approval of AME Zion. Defendants argue that this constituted “more than a scintilla of evidence” that Smith Chapel remained independent of AME Zion with respect to real property matters.

In *Looney* and *Fire Baptized*, we noted that ambiguity in the real property transactions created a factual issue for the jury. In the instant case, as in those, we hold that the testimony concerning the intent of defendants, coupled with the language designating defendants, and not the plaintiff denomination, as grantees, created a factual issue for the jury. In light of this factual issue, we hold that the trial court did not err in denying plaintiffs’ motions for directed verdict and JNOV.

Moreover, defendants assert that AME Zion does not own the property outright or in trust in that the 2011 deed was not executed in accordance with the requirements of the Book of Discipline or the policy of the Board of Trustees. While Bishop Richard Thompson consented to the deed, he did not consent to a deed of trust on the property. In addition, the trust clause required by the Book of Discipline was absent from the 2011 deed. Furthermore, the 2011 deed was signed only by the pastor and one trustee, without properly convening the Board of Trustees to address the matter. Defendants further remark that the trustees could not dispose of church property without a majority vote at a full meeting, that no proper notice was given,

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and that only six of forty people were present. Defendants maintain that this constituted “more than a scintilla of evidence” that the 2011 deed was defective.

In *Fire Baptized*, we observed that the transactions at issue were not conducted in accordance with the procedure mandated by, and were executed without the approval of, the plaintiff denomination. Here, as in *Fire Baptized*, proper procedure was not followed. We hold that this too created a factual issue for the jury. As such, we hold that the trial court did not err in denying plaintiffs’ motions for directed verdict and JNOV.

Plaintiffs point to an abundance of evidence in their favor, but our standard considers solely, in the light most favorable to the defendants, whether there was “more than a scintilla of evidence” to support defendants’ case, sufficient to be considered by a jury. We hold that there was such evidence, that it was competent, that the jury appropriately relied on it, and that therefore the trial court did not err in denying plaintiffs’ motion for judgment notwithstanding the verdict.

NO ERROR.

Judges CALABRIA and TYSON concur.

Report per Rule 30(e).