

SUPREME COURT OF GEORGIA

Rector, Wardens and Vestrymen of Christ Church in Savannah v.
Bishop of the Episcopal Diocese of Georgia, Inc., 290 Ga. 95

718 S.E.2d 237 (2011) · No. S10G1909 · Decided November 21, 2011

SUMMARY

The Supreme Court of Georgia considered a dispute over control of property belonging to Christ Church in Savannah after a majority faction disaffiliated from the Episcopal Church. Applying the neutral-principles-of-law approach, the court held that the church property was held in trust for the benefit of the Episcopal Church, although the lower courts may have relied too directly on OCGA §§ 14-5-46 and 14-5-47. The court examined title instruments, statutes, and local and general church governing documents without resolving religious doctrine.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Nahmias, Justice; Nahmias; Hunstein; Benham; Thompson; Hines; Melton
JURISDICTION	Georgia
DECIDED	November 21, 2011
DOCKET	S10G1909
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Georgia Diocese filed an action for injunctive relief, damages, and a declaratory judgment concerning control of Christ Church property. After the Episcopal Church and CCE intervened, the parties filed cross-motions for summary judgment. The trial court granted summary judgment for the Episcopal Church, the Georgia Diocese, and CCE, and the Court of Appeals affirmed. The Supreme Court of Georgia granted certiorari.
STANDARD OF REVIEW	De novo review of the grant of summary judgment and application of neutral principles of law to undisputed title instruments, statutes, and church governing documents.
PRECEDENTIAL VALUE	published precedential opinion

PARTIES

Rector, Wardens and Vestrymen of Christ Church in Savannah, Christ Church in Savannah, CCS v. Bishop of the Episcopal Diocese of Georgia, Inc., Episcopal Church, Episcopal Diocese of Georgia, Christ Church Episcopal, CCE

TOPICS

title disputes real estate trusts first amendment statutory interpretation

PRACTICE AREAS

real estate trusts constitutional law statutory interpretation

QUESTIONS PRESENTED

1. Whether Georgia courts properly apply the neutral-principles-of-law approach, rather than ecclesiastical deference, to resolve a hierarchical church property dispute.
2. Whether OCGA §§ 14-5-46 and 14-5-47 directly governed the property and established a trust in favor of the Episcopal Church.
3. Whether the title instruments, Georgia statutes, local and general church governing documents, and the parties' pre-dispute conduct demonstrated that Christ Church property was held in trust for the Episcopal Church.
4. Whether the absence of an express trust complying with Georgia's generic express-trust statute precluded finding a trust under the neutral-principles approach.

HOLDINGS

1. Georgia courts may resolve hierarchical church property disputes by applying neutral principles of law without deciding religious doctrine or deferring to ecclesiastical authorities.
2. The deeds and other title instruments did not themselves create a trust in favor of the Episcopal Church, but neither did they preclude creation or implication of such a trust.
3. The court did not decide whether OCGA §§ 14-5-46 and 14-5-47 directly applied to all of the property, but held that Georgia precedent and Jones permitted consideration of the mode of church government and rules of discipline in applying neutral principles.
4. Failure to create an express trust complying with OCGA § 53-12-20 does not preclude implication of a trust over church property under the neutral-principles doctrine.
5. Neutral principles of law demonstrated that the property of Christ Church at issue was held in trust for the benefit of the Episcopal Church.

KEY QUOTATIONS

"The First Amendment allows CCS and its members to leave the Episcopal Church and worship as they please, like all other Americans, but it does not allow them to take with them property that has for generations

been accumulated and held by a constituent church of the Protestant Episcopal Church in the United States of America.” (254)

“In the end, it is fair to say, as the trial court did, that Christ Church can no more shrug off the trust, than the National Church could unilaterally impose it.” (255)

FACTUAL BACKGROUND

Christ Church in Savannah had been affiliated with the hierarchical Episcopal Church and the Episcopal Diocese of Georgia for approximately 180 years. In 2006, a majority faction voted to sever those ties, took control of the church property, and later voted to affiliate with the Diocese of Soroti in Uganda. The Episcopal Diocese recognized a minority faction that remained loyal to the Episcopal Church as the true Christ Church and sought control of the property. The property was legally titled in the local corporate entity, but the Episcopal Church's governing documents, local corporate filings, historical affiliation, and course of conduct addressed control and use of the property.

PROCEDURAL HISTORY

The trial court determined under the neutral-principles approach that Christ Church property was held in trust for the Episcopal Church and entered summary judgment for the Episcopal Church, the Georgia Diocese, and CCE. The Court of Appeals affirmed. The Supreme Court of Georgia affirmed the judgment, although it concluded that the lower courts may have relied too directly on OCGA §§ 14-5-46 and 14-5-47.

DISPOSITION

affirmed

CASES CITED

- Jones v. Wolf, 443 U.S. 595, 602-606, 99 S. Ct. 3020, 61 L. Ed. 2d 775 (1979)
- Presbytery of Greater Atlanta, Inc. v. Timberridge Presbyterian Church, Inc., 290 Ga. ___, ___ S.E.2d ___ (2011)
- Carnes v. Smith, 236 Ga. 30, 35-39, 222 S.E.2d 322 (1976)
- Holiness Baptist Assn. v. Barber, 274 Ga. 357, 358-359, 552 S.E.2d 90 (2001)
- Crumbley v. Solomon, 243 Ga. 343, 344-345, 254 S.E.2d 330 (1979)
- Jones v. Wolf, 244 Ga. 388, 389, 260 S.E.2d 84 (1979)
- Kemp v. Neal, 288 Ga. 324, 326-329, 704 S.E.2d 175 (2010)
- Ga. District Council of Assemblies of God, Inc. v. Atlanta Faith Mem. Church, Inc., 267 Ga. 59, 60-61, 472 S.E.2d 66 (1996)
- Wardens & Vestrymen of Christ Church v. Mayor & Aldermen of Savannah, 82 Ga. 656, 656, 9 S.E. 537 (1889)
- Rector, Wardens & Vestrymen of Trinity-Saint Michael's Parish, Inc. v. Episcopal Church in Diocese of Conn., 224 Conn. 797, 620 A.2d 1280, 1292 (1993)
- Episcopal Church Cases, 45 Cal. 4th 467, 87 Cal. Rptr. 3d 275, 198 P.3d 66, 81 (2009)

- Bishop & Diocese of Colorado v. Mote, 716 P.2d 85, 100 (Colo. 1986)
- Watson v. Jones, 80 U.S. 679, 722 (1871)

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