

**NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3260-21**

**THE UNITED HOUSE OF
PRAYER FOR ALL PEOPLE OF
THE CHURCH ON THE ROCK
OF THE APOSTOLIC FAITH,**

Plaintiff-Respondent,

v.

CITY OF CAMDEN,

Defendant-Appellant.

Submitted April 19, 2023 – Decided May 4, 2023

Before Judges Mayer and Enright.

On appeal from the Tax Court of New Jersey, Docket
No. 011516-2021.

Brown & Connery LLP, attorneys for appellant (Mark
P. Asselta, on the briefs).

Sherman, Silverstein, Kohl, Rose & Podolsky, PA,
attorneys for respondent (Anne S. Cantwell, on the
brief).

PER CURIAM

Defendant City of Camden (City) appeals from a May 11, 2022 Tax Court order granting summary judgment to plaintiff The United House of Prayer for All People of the Church on the Rock of the Apostolic Faith (Church), finding the Church exempt from the payment of real property taxes under N.J.S.A. 54:4-3.6. We affirm.

We recite the undisputed facts from the motion record. This matter involves real property located in Camden (property). The Church uses the property exclusively for religious purposes, which the City does not dispute.

As framed by the Tax Court judge, the legal issue is "whether the manner in which title [of the property] is held bars a property tax exemption . . . under N.J.S.A. 54:4-3.6." To claim a property tax exemption under that statute, a party must satisfy a three-part test by demonstrating: (1) the owner of the property must be organized exclusively for a charitable purpose; (2) the property is used for such a charitable purpose; and (3) the use and operation of the property is not for profit. Paper Mill Playhouse v. Millburn, 95 N.J. 503, 506 (1984).

The parties agree that the Church satisfied the latter two of the three prongs to qualify for the statutory exemption. However, the City contends the Church failed to establish ownership of the property to be entitled to the exemption. The Church counters that the property is owned by the current

Church bishop as trustee for the Church, and the designation of an individual bishop as a named trustee for the Church does not accord that individual an ownership interest in the property. Thus, the Church claims it owns the property.

By way of background, the Church was established in 1919 and incorporated in 1927 to "maintain and perpetuate the doctrine of Christianity and the Apostolic Faith throughout the world among all people" and "erect and maintain houses of prayer and worship where all people may gather for prayer and to worship the Almighty God." In 1964, the United States Internal Revenue Service recognized the Church as exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code.

In 1969, the Church acquired the property.¹ The Church used the property and received tax exempt status until the building fell into disrepair. During the time the property was not being used by the Church for religious purposes, it was taxed by the City.

The Church subsequently restored and renovated the property in 2019 and 2020. The property was rededicated and reopened for Church operations on June 13, 2020. Since that date, the property has been used exclusively for Church purposes, including religious services, pastoral activities, food

¹ The Church has 137 properties throughout the United States.

distribution, and other charitable activities for the benefit of the Church community.

There have been four named bishops since 1919. Under the Church's Constitution and By-laws, title to the Church's real estate is held by the bishop as trustee for the Church as a fiduciary for the benefit of the Church. The Church's Constitution and By-laws expressly state that "[t]he Bishop shall hold the property of all of the congregations of the organization as Trustee for the use and benefit of such congregations. The Bishop may rent, lease, dispose of or retain such property, for the use and benefit of the organization." Additionally, the Church's governing documents provide "[p]roperty purchased by any minister or other persons belonging to this organization for the purpose of assembly of a congregation of this organization shall belong to this organization irrespective of in whose name title thereto is taken."

The original deed for the property designated "Bishop Walter McCollough, Trustee, United House of Prayer for All People of the Church on the Rock of the Apostolic Faith" as grantee. In 1992, a deed to the property was executed by "Bishop S.C. Madison, Successor Trustee, For the United House of Prayer for All People of the Church on the Rock of the Apostolic Faith." In 1997, Bishop S.C. Madison sought to streamline the manner for conveying title

to church property to alleviate the practice of transferring title each time a bishop retired or died and a successor bishop was installed. To accomplish that goal, Bishop Madison created confirmatory deeds naming the Bishop and any successor Bishop as Trustee for the Church. In May 2008, Bishop C.M. Bailey succeeded Bishop Madison.

On September 22, 2020, based on the reopening of its house of worship, the Church requested the City declare the property exempt from real estate tax payments. On January 29, 2021, the City's tax assessor denied the Church's request for a property tax exemption for the 2021 tax year.

The City's tax assessor found the August 3, 1992 deed "lists the ownership [of the property] as Bishop S.C. Madison, Successor Trustee, for the United House of Prayer for All People of the Church on the Rock of the Apostolic Faith." Based on the wording of that deed, the tax assessor concluded the property did not meet the requirements for a tax exemption because "[t]he Bishop is not permitted to have an ownership interest in the property."

The Church appealed the City tax assessor's denial of its requested exemption to the Camden County Board of Taxation (Board). The Board affirmed the denial on June 30, 2021.

The Church filed a complaint in the Tax Court, appealing the Board's denial of its requested tax exemption. In March 2022, the Church filed a motion for summary judgment seeking reversal of the Board's judgment. The City opposed the motion and cross-moved for summary judgment seeking affirmance of the Board's decision.

The Tax Court judge heard counsel's arguments in April 2022. In a May 11, 2022 order and accompanying written decision, the judge granted the Church's motion and denied the City's cross-motion.

Because the Church and the City agreed on the facts, the judge concluded the matter was ripe for summary judgment. Additionally, the judge noted the dispute involved a purely legal question—whether the Church owned the property to qualify for an exemption under N.J.S.A. 54:4-3.6.

The judge concluded the Church owned the property and qualified for an exemption under N.J.S.A. 54:4-3.6. After reviewing the Church's Constitution and By-laws, the judge explained "there [was] no actual trust" holding title to the property and "the designation of the Bishop, as 'trustee' [was] in apparent satisfaction of the requirements of [the Church]'s Constitution and By-laws that the 'Bishop shall hold the property . . . as Trustee for the use and benefit of' its congregations." The judge found none of the Church's designated bishops

acquired any personal interest in the property. Rather, she concluded that the bishops "held such interest solely for the benefit of the religious organization over which they have spiritual guidance."

Further, while noting the Church's designated bishop has "the power to make determinations relative to the subject property," the judge stated the bishop "may do so only for the benefit of the organization and not for his own personal benefit." The judge found "the property may be titled in the name of the Bishop, [but] the property belongs to the [Church]."

Relying on Ctr. for Molecular Med. & Immunology v. Twp. of Belleville, 357 N.J. Super. 41, 53-54 (App. Div. 2003), the judge concluded N.J.S.A. 54:4-3.6 was intended to prevent individuals or entities from avoiding real estate taxes by leasing property to entities which would otherwise qualify for a tax exemption. Applying the reasoning in that case to the undisputed facts, the judge found "no such intent and there [was] no question that the use of the . . . property is devoted to charitable purposes." The judge stated "[t]he titling of the . . . property in the name of the Bishop, as Trustee, [was] a mere convention, providing nothing to the Bishop beyond that which is set forth in the organization's governing instrument." She found "[u]nder the specific factual circumstances presented here, . . . [the Church] is the owner of the . . . property

notwithstanding the manner in which title is stated on the record[ed] deed" and entered a judgment granting "an exemption of real property taxes on the property" to the Church.

On appeal, the City argues the judge erred in determining that the Church was exempt from the payment of real estate taxes because the Church did not own the property. We disagree.

We review the Tax Court's grant of summary judgment de novo, applying the same legal standard as the trial court. Waksal v. Dir., Div. of Tax'n, 215 N.J. 224, 231-32 (2013). "Summary judgment is appropriate 'if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law.'" Friedman v. Martinez, 242 N.J. 449, 471-72 (2020) (quoting R. 4:46-2(c)).

In reviewing an order granting summary judgment, we consider the evidence in the light most favorable to the non-moving party and determine whether such evidence could "permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party." Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 540 (1995). "Summary judgment should be granted,

in particular, 'after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial.'" Friedman, 242 N.J. at 472 (quoting Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986)).

When reviewing a Tax Court decision, we "generally extend enhanced deference to the expertise of the Tax Court." BIS LP, Inc. v. Dir., Div. of Tax'n, 26 N.J. Tax 489, 493 (App. Div. 2011). The Tax Court's "findings will not be disturbed unless they are plainly arbitrary or there is a lack of substantial evidence to support them." Glenpointe Assocs. v. Twp. of Teaneck, 241 N.J. Super. 37, 46 (App. Div. 1990); accord Hackensack City v. Bergen Cty., 405 N.J. Super. 235, 243 (App. Div. 2009). However, "the judge's interpretation of a statute is not entitled to such deference and is subject to . . . de novo review." Waksal, 215 N.J. at 231 (quoting Advance Hous., Inc. v. Twp. of Teaneck, 422 N.J. Super. 317, 327 (App. Div. 2011)).

In statutory interpretation, "the paramount goal" is to carry out the Legislature's intent. Garden State Check Cashing Serv., Inc. v. Dep't of Banking and Ins., 237 N.J. 482, 489 (2019) (quoting DiProspero v. Penn, 183 N.J. 477, 492 (2005)). "[G]enerally, the best indicator of that intent is the statutory

language." Ibid. Courts should "ascribe to the statutory words their ordinary meaning and significance." DiProspero, 183 N.J. at 492. "Where a statute is clear and unambiguous on its face and admits of only one interpretation, a court must infer the Legislature's intent from the statute's plain meaning." O'Connell v. State, 171 N.J. 484, 488 (2002). "If the language is not clear, [courts] look to the legislative history to aid in determining the legislative intent of the statute." Oberhand v. Dir., Div. of Tax'n, 193 N.J. 558, 568 (2008).

We discern no basis to disturb the Tax Court judge's application of the statute to the facts in this case. Here, to determine ownership of the property, the judge necessarily considered the language in the deed and the Church's Constitution and By-laws. Reviewing the Church's governing documents in conjunction with the deed, the judge found the Bishop does not own the property.

Unlike the cases relied upon by the City, the Church's Constitution and By-laws unequivocally provide that property purchased by Church members for religious purposes belongs to the Church without considering "in whose name title . . . is taken." As we stated in Center for Molecular Medicine, 357 N.J. Super. at 54, it is "[t]he circumstances of th[e] case in relationship to the concept of ownership" that determines satisfaction of the ownership component of

N.J.S.A. 54:4-3.6. Here, ownership of the property is not delineated solely by the language in the deed, but must incorporate the provisions in the Church's Constitution and By-laws regarding the acquisition of property on behalf of the Church.

Based on the Church's governing documents defining the ownership of Church property, without regard to the name of the individual or entity in whose name title is issued, and considering the unique circumstances presented here, we are satisfied that the Tax Court judge properly applied N.J.S.A. 54:4-3.6 and correctly held the Church is exempt from the payment of real property taxes because the Church owns the property.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION