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publication in the New York Reports.

No. 231
Mindaugas Blaudziunas, et al.,
Appellants,
v.
Edward Cardinal Egan, &c.,
et al.,
Respondents.

Harry M. Kresky, for appellants.
Peter James Johnson, Jr., for respondents.

JONES, J.:

The issue before this Court is whether section 5 of the Religious Corporations Law grants plaintiffs, former parishioners of a church incorporated as a religious corporation, the authority to challenge the board of trustees' decision to demolish the church. We hold that it does not.

In 1909, Our Lady of Vilna Church -- a Roman Catholic Church established to serve a Lithuanian community in New York City -- was incorporated by the then board of trustees, comprised of the Archbishop of the Roman Catholic Diocese of New York, the Vicar General of the Diocese, the Rector of Our Lady of Vilna and two laymen trustees selected and appointed by the ex officio members, pursuant to the Religious Corporations Law. The land on which the church building and former rectory are located was deeded to the church corporation in 1910 and 1912.

At a special meeting of the board of trustees in 1980, the church adopted by-laws, consistent with the Religious Corporations Law and Canon Law of the Roman Catholic Church, regarding the governance of the church corporation and the rights and duties of the trustees. In relevant part, it defined "Church" as the "ecclesiastical entity (parish) that was incorporated under civil law as this Corporation" and "Members of the Church" to "mean the parishioners of the aforesaid ecclesiastical entity (parish)."¹ The by-laws also explained the powers of the board of trustees and the limitations upon said body. It stated: "The Trustees of the Corporation shall constitute its governing body . . . No act or proceeding of the Trustees shall be valid without the sanction of the Archbishop." The by-laws also conferred upon the trustees "custody and control

¹ The by-laws do not identify or define any group of individuals as "members of the corporation," a term used in the Religious Corporations Law.

of all the temporalities and property belonging to the Corporation . . . in accordance with the discipline, rules and usage of the Roman Catholic Church and of the Archdiocese for the support and maintenance of the Church."

In 2006, the Archbishop of the Diocese of New York, Edward Cardinal Egan, issued a Decree of Suppression, an ecclesiastical decision to close the church building and extinguish the parish, due to "a serious decline in its parish population, the need to provide for enhanced stewardship of Archdiocesan resources, and optimum use of Archdiocesan clergy and lay personnel to better serve the People of God." As stated in the decree, the Archbishop proceeded pursuant to "Canon [Law] 515.2², after having first heard the Presbyteral Council of the Archdiocese of New York and consulted with the Regional Vicar, the administrator, and neighboring pastors." In 2007, after the Archdiocese issued a press release regarding its decision to close the church, two former lay trustees of the church commenced an action to challenge the suppression decree. In August 2007, that action was discontinued by stipulation.

In October 2007, the board of trustees of the religious corporation convened a special meeting. A quorum was present -- the three ex officio members and a lay trustee. At the meeting,

² Canon Law 515.2 provides, "It is only for the diocesan bishop to erect, suppress, or alter parishes. He is neither to erect, suppress, nor alter notably parishes, unless he has heard the presbyteral council."

the lay trustee was reappointed, and another was appointed. According to the meeting's minutes, the Archbishop reported upon his "ecclesiastical suppression of the parish and closure of the church building due to the longstanding decline in parish population, lack of attendance and paucity of requests for baptisms, weddings and funerals, rarely held Lithuanian language Masses and the need to enhance and preserve resources to better serve the faithful." Additionally, a report concerning the condition of the building detailed an "historical overview of the problems with the building . . . the building's condition . . . [and a] conclu[sion] that there was a significant issue with respect to the structural condition." After noting that there were "no plans to reopen the church for worship," the board of trustees unanimously adopted a resolution to demolish the building.

In February 2008, plaintiffs, former parishioners of the church, commenced this action and moved for a preliminary injunction seeking to enjoin defendants, the board of trustees, from demolishing the church building. Supreme Court denied plaintiffs' motion and granted defendants' motion to dismiss the complaint.

The Appellate Division affirmed. The court concluded, *inter alia*, that the Religious Corporations Law "does not require that the demolition of the church be authorized by the parishioners," but "vest[s] approval authority for all actions

taken by the trustees of an incorporated Roman Catholic church in the archbishop or bishop of the diocese to which that church belongs." One justice dissented. The Appellate Division granted plaintiffs' motion for leave to appeal to this Court and certified a question. We now affirm.

"[R]eligious bodies are to be left free to decide church matters for themselves, uninhibited by State interference," save for matters that can be resolved through the application of "neutral principles of law" (First Presbyt. Church of Schenectady v United Presbyt. Church in U.S. of Am., 62 NY2d 110, 116-117, 120 [1984]). In Jones v Wolf, the United States Supreme Court recognized that "[t]he primary advantages to the neutral-principles approach are that it is completely secular in operation, and yet flexible enough to accommodate all forms of religious organization and policy" (443 US 595, 603 [1979]). It "relies exclusively on objective, well-established concepts of trust and property law familiar to lawyers and judges . . . [and] promises to free civil courts completely from entanglement in questions of religious doctrine, polity and practice" (id.). More specifically, the

"[a]pplication of the neutral principles doctrine requires the court to focus on the language of the deeds, the terms of the local church charter, the State statutes governing the holding of church property, and the provisions in the constitution of the general church concerning the ownership and control of the church property"

(Episcopal Diocese of Rochester v Harnish, 11 NY3d 340, 350

[2008] [internal quotations and citation omitted]).

Notwithstanding the by-laws of this church corporation, which grant the board of trustees custody and control of the church property, plaintiffs rely upon Religious Corporation Law § 5 to challenge the board of trustees' decision to demolish the church building. Plaintiffs contend that the decision to demolish the church building must be authorized by the parishioners, who they claim are members of the church corporation. This argument is unavailing.

Section 5 of the Religious Corporation Law, in relevant part, vests the custody and control of a religious corporation's real property in the board of trustees, and directs the administration of such property

"in accordance with the discipline, rule and usages of the corporation . . . to which the corporation is subject, and with the provisions of law relating thereto, for the support and maintenance of the corporation, or providing the members of the corporation at a meeting thereof shall so authorize, of some religious, charitable, benevolent or educational object conducted by said corporation or in connection with it, or with the denomination, if any, with which it is connected."

It further states "[t]he trustees of an incorporated Roman Catholic Church . . . shall not transfer any property as herein provided without the consent of the archbishop or bishop of the diocese to which such church belongs or in case of their absence or inability to act, without the consent of the vicar general or administrator of such diocese" (Religious Corporations Law § 5).

Relevant to Roman Catholic Churches, Religious Corporation Law §§ 91 and 92 explain the governance of an incorporated Roman Catholic church and the division and disposition of parish property, respectively. Section 91 requires "[t]he archbishop or bishop and the vicar-general of the diocese to which any incorporated Roman Catholic church belongs, the rector of such church, and their successors in office [] by virtue of their offices, [to] be trustees of such church . . . [as well as t]wo laymen, members of such incorporated church." It further states: "No act or proceeding of the trustees of any such incorporated church shall be valid without the sanction of the archbishop or bishop of the diocese to which such church belongs, or in case of their absence or inability to act, without the sanction of the vicar-general or of the administrator of such diocese." Section 92 recognizes the jurisdiction of a Roman Catholic bishop over an individual parish and his authority to act independently or with the consent of the trustees of the original Roman Catholic church corporation to transfer property to a new or second Roman Catholic church corporation.

Section 5 of the Religious Corporation Law is consistent with sections 91 and 92 and the by-laws of the church corporation. They uniformly recognize the authority of the board of trustees and the archbishop to control church property. However, plaintiffs characterize themselves and other former parishioners as "members of the corporation," pursuant to section

5 of the Religious Corporations Law, and allege that they have the collective right to veto the demolition decision by refusing to give the requisite authorization relating to the use of church resources when they are used for some "religious, charitable, benevolent or education object."

Applying the neutral principles of law doctrine, no such right or authority has been reserved for the benefit of the parishioners. Pursuant to the by-laws, parishioners are members of the ecclesiastical body -- not members of a corporation. Such status does not confer upon them the rights and duties as members of the religious corporation. Nor have plaintiffs pointed to any statute, corporate governance document, church canon or other provision that identifies current or former parishioners as members of the corporation. Given the deed to the property at issue is in the name of the religious corporation and the corporation's by-laws and the Religious Corporation Laws unequivocally grant the trustees, as well as the archbishop specifically, the power to control and administer the property of the church corporation, the authority to demolish the church building was within their purview. Thus, plaintiffs have no basis to challenge the actions properly voted upon by the board of trustees and sanctioned by the archbishop.

Accordingly, the order of the Appellate Division should be affirmed, with costs, and the certified question not answered as unnecessary.

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Order affirmed, with costs, and certified question not answered as unnecessary. Opinion by Judge Jones. Chief Judge Lippman and Judges Ciparick, Graffeo, Read, Smith and Pigott concur.

Decided December 13, 2011