

**CHURCH OF CHRIST (HOLINESS) OF LIBERIA**, represented by Rev. K. T. BESTMAN, Appellant, v. **ST. TIMOTHY CHURCH OF BUCHANAN**, by and thru CHRISTIAN NATION CHURCH, an unincorporated association of religious churches of Liberia, represented by its Acting General Superintendent, Rev. J. WILMOT FORD, Appellee.

APPEAL FROM THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT,  
GRAND BASSA COUNTY.

Heard: June 1 & 2, 1983. Decided: July 7, 1983.

1. Courts of records within their respective jurisdictions, as provided by our statutory laws, have the power to declare rights, statuses and other legal relations whether or not further relief is or could be claimed. The declaration may be either affirmative or negative in form and effect; and such declaration shall have the force of a final judgment.
2. The power granted to the court under the statute to declare rights, statuses and other legal relations is discretionary.
3. The rights and obligations of members of a religious society are governed by the laws of that society. Every person entering into a religious society impliedly, if not expressly, covenants to conform to its rules and disciplines, and he has no right to insist on the exercise of his rights as a member where such insistence amounts to an invasive and destruction of property rights of the society and of the members thereof.
4. The rights of a member of a religious society are dependent upon the continuance of his membership so that when he ceases to be a member his rights and beneficial interests in the property of the association ceases, and he no longer has standing to sue in relation thereto.
5. The separation or secession of some of the members from a church does not destroy the identity of the church and lessen the rights of those adhering to the organization even though the minister and trustees are among the seeders.
6. On secession, whether by members from a church, or by a congregation from an ecclesiastical system with which it was associated, the seceding parties forfeit all rights to the church property even though they keep the name of the Old society, or even though they incorporate and take its name; and they cannot, either on becoming independent, or on uniting with another denomination, take with them the church property.

Elizabeth Ford, one of the Incorporators of the Church of Christ (Holiness) Liberia, Inc., and her husband, Rev. J. Wilmot Ford, and a few others who were also members of the St. Timothy Church of Buchanan, were dissatisfied and left the church to form another church known as Christian Nation Church (CNC) and decided to take along with them the real property which was acquired at the time they were under the umbrella of the Church of

Christ (Holiness) Liberia, Inc., thereby depriving the majority of the members of the St. Timothy Church of Buchanan of the property of the church.

St. Timothy Church filed an action for declaratory judgment praying the court to declare the ownership of the property located in Buchanan on which St. Timothy was erected, which said property was purchased in the name of St. Timothy Church of Christ (Holiness) Liberia, Inc.

The trial court ruled that St. Timothy was the bona fide owner of the property on which the church was erected and not the Church of Christ (Holiness). From this ruling, the Church of Christ Holiness appealed to the Supreme Court.

The Supreme Court reversed the ruling of the trial court and held, among other things, that when appellees broke away or withdrew from the Church of Christ (Holiness) they forfeited all rights to the church property, and that the property on which St. Timothy Church was erected belonged to the St. Timothy Church of Christ (Holiness) Liberia, Inc., in whose name the deed was executed, and not the Christian Nation Church, appellees herein.

Nelson W. Broderick appeared for the appellant. Victor D. Hne and John T. Teewia appeared for the appellees.

MR. JUSTICE SMITH delivered the opinion of the Court.

Courts of record within their respective jurisdictions, as provided by our statutory laws, shall have power to declare rights, statuses and other legal relations whether or not further relief is or could be claimed. The declaration may be either affirmative or negative in form and effect; and such declaration shall have the force of a final judgment. The power granted under this statute is discretionary. Civil Procedure Law, Rev. Code 1: 43.1.

Relying upon the aforesaid statute, the appellees herein petitioned the Second Judicial Circuit Court, Grand Bassa County, praying for a declaratory judgment as to the ownership of the real property located in Buchanan, Grand Bassa County, on which a church known and referred to as St. Timothy Church of Buchanan is alleged to have been erected, and which parcel of land is the subject of dispute between the appellees and the appellants herein.

During the February 1982 Term of the Second Judicial Circuit, Court, presided over by His Honor Hall W. Badio, the proceeding came on for hearing. The presiding judge heard evidence and entered an extensive judgment in which he concluded, and we quote:

"In view of the law cited and the facts related herein, it is our opinion that the deed and the land is the bona fide property of St. Timothy Church and not the Church of Christ Holiness. Reverend J. Wilmot Ford being the administrative head of St. Timothy Church which has now consolidated its efforts and established a religious politic entitled Christian Nation Church (CNC), is hereby ordered to receive and have custody of the deed and control of the

land and church constructed for St. Timothy Church on that land. Costs against the defendant. And it is so ordered."

The learned judge relied upon the principle of burden of proof and cited in support of his conclusion the case: Mobil Oil Company v Sano, 19 LLR 12 (1968); Civil Procedure Law, Rev. Code 1: 25.3. In essence, the trial judge held that the testimonies of appellant's witnesses were not corroborated that is to say, they did not prove their side of the case by preponderance of evidence. The appellant excepted to the court's final judgment and appealed the case to this Court of last resort.

Of the six-count bill of exceptions, the only issue which we deem necessary to discuss, and which in our opinion is relevant to the determination of the controversy is, whether from the circumstances attending the case and the evidence adduced at the trial, it has been established that the appellee is the legal owner of the subject property, or the appellant, and whether or not the judgment appealed from is supported by the evidence adduced at the trial. In order to settle this issue and make a declaration in keeping with law, we must review the entire records and take recourse to the evidence adduced at the trial.

The significant fact in this case, which has been admitted by both parties and as is more fully stated in their respective briefs, is that the churches which had organized themselves and formed the religious organization in 1981 known and referred to as the Christian Nation Church (CNC), through which organization this proceeding was instituted for St. Timothy Church of Buchanan, appellee herein, were all belonging to the Church of Christ (Holiness) Liberia, Inc., the appellant herein. It is also not denied that the deed for the parcel of land was obtained in 1976, that is, two years after incorporation of the Church of Christ (Holiness) Liberia, Inc. as a body politic in 1974, and that negotiations for the purchase of the parcel of land in dispute was made in 1971 after Bishop K T. Bestman and Elizabeth Ford are said to have amalgamated in 1966. Also not denied by any of the parties is that the grantee in the deed for the parcel of land is "St. Timothy, Church of Christ (Holiness) Liberia, Inc." Moreover, 'it is not denied that the persons who broke away from St. Timothy Church of Buchanan are but a minority, and that the majority of the members continue to remain with the Church of Christ (Holiness) Liberia, Inc. And finally, it is not disputed that by an act of the Legislature, approved May 1, 1974, and published in hand-bills, the Church of Christ (Holiness) Liberia, Inc. is an incorporated religious organization whose original organizers, among many others, were Bishop Kerlson T. Bestman, Elizabeth Johnson and Elizabeth Ford, and that said organization has not been dissolved, but still operates in Buchanan and elsewhere in Liberia.

To support the fact that the organizers of Christian Nation Church (CNC) were originally members of Church of Christ (Holiness) Liberia, Inc., appellants herein, we deem it appropriate to quote a relevant portion of appellees' own brief, as follows:

"In 1980, when the Church of Christ (Holiness) of Liberia met at their Annual Conference in Niffu, Sinoe County, Rev. K. T. Bestman acted disgracefully for which the churches decided to put him out, but because of Sister Elizabeth Ford's advice they did not take this action. After the conference, they decided to call him but he refused to attend to the call and so three (3) out of the four Churches of Christ (Holiness) of Liberia, namely: St. Timothy Church, Buchanan, New Testament Church, Monrovia, Bethel Temple, Niffu, Sinoe County, decided to sever their affiliation with Church of Christ (Holiness) of Liberia, headed by Rev. K. T. Bestman, and this was done on January 10, 1981 . . ."

The deed upon which the contending parties relied and which was proferted with their respective pleadings is a warranty deed from Murray Johnson to St. Timothy, Church of Christ (Holiness) of Liberia, Inc. for lot No. 54 and part of 35 of Block Nos. 73-74, situated at Central Buchanan, Grand Bassa County. The names of the grantor and that of the grantees cannot be questioned; for, oral testimony cannot defeat written evidence. The said deed shows on its face that it was executed, probated and registered in 1976, and so it was obtained two years after the church was incorporated as a body politic.

As to the relationship of Elizabeth Ford and Bishop Bestman to the church affairs, here is a relevant portion of Witness Elizabeth-Ford's own testimony made under oath, as follows:

"St. Timothy Church was founded by me in 1963 when Rev. K. T. Bestman came on his first visit, we met at the First Pentecostal Church in Co-Co-Wein. After service, he came to me and he asked me for us to join and work in my church. I told him that I was on my way to Monrovia so I could not say anything. He left. In 1965, he came to me for the second time and asked me if my little church was still going on, I said yes, he said he would like to go with me to see my members; at that time I was in my last month to deliver. So I did not give any answer. In 1966, March, Reverend Bestman came to me and said that he still had interest in my service . . . Reverend Bestman and I joined together, that was in 1966, at that time Rev. Bestman's Church was Evangelical Church in Monrovia (sic) , .. ,"

Granting that Elizabeth Ford was the one who established the St. Timothy Church of Buchanan, by her testimony supra, yet it is quite clear that the relationship of Bishop Bestman to the St. Timothy Church of Buchanan dates as far back as 1963 and remained cordial until 1974, that is to say, eleven years after the Church of Christ (Holiness) Liberia, Inc., of which they said Elizabeth Ford and Bishop Bestman are founding members, was incorporated in 1974.

As is evident from the testimony of appellee's third witness, Rev. J. Wilmot Ford, only a minority of the members of the St. Timothy Church of Buchanan had severed their relationship with the Church of Christ (Holiness) Liberia, Inc., while majority of the members of the said church still remain, and as proof we quote few questions and answers of the witness on the cross examination, to wit:

Q. As a Minister of the Gospel and upon the oath which you have just taken, do you swear in the presence of Almighty God that all of the previous members of St. Timothy Church of Buchanan have severed their relationship with Church of Christ Holiness of Liberia, represented by Rev. Bishop K .T. Bestman and that there is not a single previous member of the St. Timothy Church remaining now with Church of Christ Holiness, respondent in this case?

A. When we wrote our letter we were in the church worshipping. After seven months, a letter came from Monrovia that Superintendent Krakue should put my church members out of St. Timothy and turn over to Rev. Bestman, thereby the very first two persons who consented and do not take part (sic), this house was turned over to them. And even right now among the crowd, a lady who entertained delegates from Monrovia after hearing about the letter from Monrovia, branched off from us and went on respondent's side. But I want to tell the court that 35% of the membership of St. Timothy is with the Christian Nation Church.

Q. Do you agree that St. Peter Church, Bethany Temple of Niffu, Sinoe County, and New Testament Church of New Kru Town, Monrovia, were all members of and under the umbrella of Church of Christ Holiness of Liberia, Incorporated?

A. These three churches were working together and we had convention together but when we fell out, they moved."

From the answers given by said witness to questions on the cross-examination, it is quite clear that the entire membership of the St. Timothy Church of Buchanan did not sever their relationship with the Church of Christ (Holiness) Liberia, Inc.; instead, sixty-five percent (65%) of the members of St. Timothy Church of Buchanan is still with the church while only thirty-five percent (35%) of the members is alleged to be with the Christian Nation Church (CNC). What the records show is that Elizabeth Ford, one of the incorporators of the Church of Christ (Holiness) Liberia, Inc. in 1974 and her husband, Rev. J. Wilmot Ford, and a few others who were also members of the St. Timothy Church of Buchanan, were dissatisfied and left the Church to form another church known as Christian Nation Church (CNC) and decided to take along with them the real property which was acquired at the time they were under the umbrella of the Church of Christ (Holiness) Liberia, Inc., thereby depriving the majority of the members of the St. Timothy Church of Buchanan. of the property of the Church. These are the facts in the case.

With this clear evidence on record, we are at a complete loss to understand why the trial judge held that the respondent, appellant herein, did not prove its side of the case. In our opinion, the burden of proof in this case rested on the petitioner to show that St. Timothy Church of Buchanan was never a founding member of the Church of Christ (Holiness) Liberia, Inc. under the leadership of Bishop Bestman. It was the appellee, and not the appellant, upon whom the burden also rested to prove that the deed for the land in question

was not in the name of the Church of Christ (Holiness) Liberia, Inc., and that all of the members of St. Timothy Church of Buchanan had severed their relationship with the Church of Christ (Holiness) Liberia. Instead, Rev. J. Wilmot Ford has testified on the cross-examination that thirty-five percent of the members of St. Timothy Church of Buchanan have broken off and joined the Christian National Church. Here is another question put to Rev. Ford on the cross touching the point and his answer thereto:

"Q. May we understand from your answer that some of the previous members of St. Timothy Church are still with Church of Christ Holiness?

A. If you are talking about the three members, I want to tell you that you have foundation members and ordinary members. Those members that founded the St. Timothy Church are those who are leaving the Church, who said they do not want Bestman. Those who do not seek nor labor for this property that is in question, we cannot call them foundation members."

With respect to the purchase of the land on which the St. Timothy Church of Buchanan was erected, Bishop Bestman testified, and it was corroborated by other witnesses without rebuttal, that:

"When we came to our first district conference in Buchanan in 1968, the Church borrowed the Methodist Church in Old-Field in Buchanan. In 1975 when we came to Buchanan for our general conference, the church said we will not borrow house but we will find a piece of land. During that time, CWW in the church (meaning Women Christian Society) put together and got \$200.00 and they went to Bubu to sell them a piece of land. They told him when bishop comes to the conference, we will send you the balance. So when we came to the conference, they told me and I gave them the balance \$200.00 . . . ."

The bishop further testified, and his testimony was corroborated by the testimonies of Witness Elizabeth Johnson, one of the organizers of St. Timothy Church and the Church of Christ (Holiness) Liberia, whose name and that of Elizabeth Ford appear in the Act of the Legislature of 1974, incorporating the Church of Christ (Holiness) Liberia, and witness Esther Weltee of Lower Buchanan, also a founding member of St. Timothy Church, that at the time the St. Timothy Church started operating, Elizabeth Ford was in Monrovia, and we quote the Bishop:

". . . When I got the letter from the church, I came to Lower Buchanan. On that Sunday while we were in church, while preaching, Murray Johnson came in a car with the former Superintendent, Charles Williams, saying to us "well, I have come to close the church". I stopped preaching and came out with my members. He said, "Well, Babu who sold you this place is not for him; it is for me so I will close this place." Then Mr. Charles Williams told him not to close the church of God, but if he wanted money we could give him money.

Then Charles Williams told me saying, bishop, you must go to Monrovia and bring the amount which is \$475.00 for this land where your church is erected. I went to Monrovia and called on my members when I reached home. Mr. Ford is financial secretary, Elizabeth Ford is the treasurer. We went to one Peter Doe and we got \$475.00 then I came to Buchanan the next day and paid the money to Murray Johnson . . . ."

We find nowhere in the records where the appellee rebutted these statements, but it is interesting to note from the records that Mr. Samuel B. Knowlden, whom the appellee, in their question on the cross, said was in charge of the land of Mr. Johnson and who issued the receipt for the \$475.00, and who also as a lawyer offered the deed into probate, when introduced as a rebutting witness for the appellee, told the court that as far as the arrangement with Babu Wetell and Rev. Bestman, he knew nothing from the beginning. With this statement, the appellee rested with him on the direct examination. On the cross-examination, the said witness testified that Babu Wetell told him that Elizabeth Ford was using his (Babu Wetell's) piazza to hold service, and this was all he knew. This witness was thereupon discharged with the thanks of court. No other witness was introduced in rebuttal to say that the \$475.00 was not paid to Johnson by Bishop Bestman. In our opinion, therefore, it is the appellee who alleged that fact but could not prove it, and not the appellant as concluded by the trial judge.

Having reviewed the evidence, we shall now take recourse to the law applicable to this situation.

As a general rule, the rights and obligations of members of a religious society are governed by the laws of that society. Every person entering into a religious society impliedly, if not expressly, covenants to conform to its rules and to submit to its authority and disciplines, and he has no right to insist on the exercise of his rights as a member where such insistence amounts to an invasion and destruction of property rights of the society and of other members thereof. 76 C.J.S., Religious Society, § 12.

Besides the act of Legislature incorporating the Church of Christ (Holiness) Liberia, Inc., we have found no other evidence as to the constitution and by-laws of this church from which we could draw conclusion as to the rights of a member after his withdrawal or excommunication; nevertheless, as a general rule, the rights of a member are dependent on the continuance of his membership; and when he ceases to be a member, his rights and beneficial interest in the property of the association cease, and he no longer has standing to sue in relation thereto. 76 C.J.S., Religious Society, § 15.

Elizabeth Ford and her husband, J. Wilmot Ford, who were Bishop Bestman's church financial secretary and treasurer, respectively, having severed their relationship with the Church of Christ (Holiness) Liberia, Inc., and joined another denomination known and called Christian Nation Church (CNC), it is beyond our understanding why under the law

cited supra, the real property of St. Timothy Church should be taken away to deprive sixty-five percent of its members of their church's property.

On the secession of thirty-five percent of the members of St. Timothy Church of Buchanan from the Church of Christ (Holiness) Liberia, Inc., and in respect to the property of said church, we have this legal authority:

"The separation or secession of some of the members from a church does not destroy the identity of the church or lessen the rights of those adhering to the organization, even though the minister and trustees are among the seceders.

On secession, whether by members from a church, or by a congregation from an ecclesiastical system with which it was associated, the seceding parties forfeit all rights to the church property even though they keep the name of the old society, or even though they incorporate and take its name; and they cannot, either on becoming independent, or on uniting with another denomination, take with them the church property . . . ." 76 C.J.S., Religious Society, § 71(b).

In view of the legal authorities cited supra, and as the evidence reviewed is in harmony with the law, it is our holding that the declaratory judgment rendered by the trial judge should be, and the same is hereby reversed with costs against the appellees.

It is our further opinion and holding that the rights and control over the real property, that is, lot No. 54, part of 35 of block Nos. 73-74, situated in Central Buchanan, Grand Bassa County, is lodged with the St. Timothy, Church of Christ (Holiness) Liberia, Inc., the grantee whose name appear on the warranty deed from Murray Johnson; that it is the said church which has the right of possession and use of said property and not the seceders, appellee herein. And it is hereby so ordered.

*Judgment reversed.*