

Opinion
No. 1193

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION

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LINCOLN PARK UNITED METHODIST CHURCH,
Petitioner,
vs.
DISTRICT OF COLUMBIA,
Respondent.

Docket No. 2436
STEPHEN M. BARTON
CLERK OF
SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
TAX DIVISION

JAN 9 1980

OPINION AND ORDER

FILED

THIS MATTER is before the Court on a petition filed by Lincoln Park United Methodist Church against the District of Columbia, appealing the assessment of real estate taxes against property owned by the petitioner at 700 A Street, N.E., in the District of Columbia.

The petitioner filed a Motion for Summary Judgment in which it submits the following Statement of Material Facts Not in Issue:

1. Petitioner, Lincoln United Methodist Church, is a religious corporation and the record owner of Lot 802, Square 896, designated as 700 A Street, Northeast, in the District of Columbia.
2. The above-described property is leased to Cole Baptist Mission Fellowship, a religious corporation, which uses the property as a church.
3. On March 17, 1976, petitioner filed an Application for Exemption from D. C. Real Property Tax, pursuant to Sections 801a(m) and 801b of the D. C. Code, Title 47. (See Exhibit A attached.)
4. On May 24, 1976 petitioner was granted an exemption from the payment of real estate taxes on the above-described property. (See Exhibit B attached)
5. On June 15, 1977, the exemption was withdrawn and the property returned to the tax rolls on the ground that Section 47-801a (n) of the District of Columbia Code and Section 133 (b) of the D.C. Regulation No. 74-35 requires concurrent ownership and use of the property in order for it to qualify for real estate tax exemption.
6. On December 12, 1977, petitioner filed a petition for an order returning the said property to the tax exempt rolls as of July 1, 1977.
7. On January 27, 1978, Respondent filed a Motion to Place the case on the Reserve Calendar pending a

final decision in Catholic University of America v. District of Columbia (D.C. Appeals No. 11500) for the reason that it was the opinion of Respondent's counsel that the decision may have had a bearing on the instant case.

8. On March 9, 1978, Judge Penn issued a Memorandum in which he indicated that it was his opinion that the issue that the property must be occupied and used by the organization seeking exemption had been decided in District of Columbia v. Maryland Synod of the Lutheran Church, 307 A.2d 735 (D.C. App. 1975).

9. Respondent filed a Memorandum in Response to the Court's Memorandum in which it was urged upon the Court that the decision in Trustees of St. Paul M.E. Ch. So. v. District of Columbia, 212 F.2d 244 (U.S. App. D.C. 1954) was controlling.

10. Petitioner also filed a Memorandum in Response to the Court's Memorandum in which it agreed with the Court that the decision in District of Columbia v. Maryland Synod of the Lutheran Church (D.C. App. 1975) 307 A.2d 735, would be controlling. Petitioner, however, agreed to the placing of the case on the Reserve Calendar if petitioner would be relieved from the payment of interest and penalty pending the decision in The Catholic University of America v. District of Columbia which was then before the D.C. Court of Appeals, and in which the Court was also asked to decide the validity of D.C. Regulation 74-35 Section 133(b). It was petitioner's position that the determination of the validity of the D.C. Regulation would be controlling and the issue would have been laid to rest.

11. District of Columbia v. Catholic University of America (D.C. App. No. 11500) was decided on January 17, 1979, and the Court held Section 133(b) of the Regulation 74-35 invalid.

12. Subsequent to the decision in D.C. v. Catholic University, supra, Respondent filed its answer in which it admits that Petitioner is a religious corporation and the record owner of Lot 802 in Square 896 designated as 700 A Street, N.E., in the District of Columbia. The Respondent further admits that exemption from real estate taxes was granted on May 26, 1976, and withdrawn on June 15, 1977. Respondent denies all the other material allegations of the petition.

The Respondent filed a cross-Motion for Summary Judgment in which it submits the following Statement of Material Facts Not in Issue:

1. Petitioner Lincoln Park United Methodist Church (hereinafter "Petitioner") is a religious corporation formed in the District of Columbia solely for the purpose of providing church services. See, as factual support:

A. Certificate and Statement of Election To Accept, of John Stewart Memorial Methodist Church, filed with the Recorder of Deeds on December 12, 1973 and

attached hereto and marked as Respondent's Exhibit No. 1 reference is drawn to paragraph three thereof which states:

The purpose or purposes which it will hereafter pursue are normal duties and functions of a church in society.

B. Certificate and Statement of Election To Accept, of East Calvary Methodist Church, filed with the Recorder of Deeds in December 12, 1973 and attached hereto and marked as Respondent's Exhibit No. 2. Specific reference is drawn to paragraph three thereof which states:

The purpose or purposes which it will hereafter pursue are normal duties and functions of a church in society.

C. Certificate and Articles of Merger of East Calvary Methodist Church into John Stewart Methodist Church to Lincoln Park United Methodist Church, filed with the Recorder of Deeds on December 12, 1973 and attached hereto and marked as Respondent's Exhibit No. 3.

D. Petitioner's supplemental answers to respondent's first set of interrogatories, filed with the Court on November 21, 1979. Specific reference is drawn to question 4 and the answer thereto:

"4. Describe specifically the nature of the activities conducted by Lincoln Park United Methodist Church in 1976, 1977, 1978.

Answer: Lincoln Park United Methodist Church conducts religious services and activities, and operates a day care center for children of working parents."

E. Petitioner's Property Use Report for Calendar Year 1978, attached hereto and marked as Respondent's Exhibit No. 4.

F. Petitioner's Application for Exemption from D.C. Real Property Tax and D. C. Personal Property Tax, attached hereto and marked as Respondent's Exhibit No. 5.

2. Petitioner is the second owner of real property in the District of Columbia described as Lot 802 in Square 896, commonly known as 700 A Street, N.E., Washington, D.C., which real property is improved by a church. (Petition at 1)

3. The real property described in paragraph 2 heretofore is not utilized by petitioner for its own church services, but instead is leased to and utilized by another religious corporation, Cole Baptist Mission Fellowship, for its own church services. (See "This Lease" which is attached hereto and made a part by reference.)

4. Although the lease referred to in paragraph 3 hereof expired by its own terms on November 30, 1975, it was received (sic) by Cole Baptist Mission Fellow-

ship on a month to month basis (at \$600 per month during the tax year in question.

5. There was no concurrence of ownership and use for the taxable year in question since the petitioner leased its church building to another religious corporation.

6. The tax year in question is 1978 (July 1, 1977 through June 30, 1978).

7. On March 17, 1976, petitioner filed an Application for Exemption from D.C. Real Property Tax, pursuant to Sections 801(m) and 801b of the D.C. Code, Title 47 for tax year 1977 for the subject property.

8. On 24 May 1976 petitioner was granted an exemption from the payment of real estate taxes on the subject property for tax year 1977 on the grounds that it qualified under Title 47, §801(n)(r)(1).

9. On June 15, 1977, the exemption was withdrawn for tax year 1978 and the property was returned to the tax rolls on the ground that Section 47-801a(n) of the District of Columbia Code and Section 133(b) of D.C. Regulation No. 74-35, requires concurrent ownership and use of the property in order for it to qualify for real estate tax exemption.

The Respondent admits that there are no material facts in issue and that the only dispute is the interpretation of the status of the petitioner as a religious corporation under Section (n) of the Act.

The Petitioner claims that the property in question is exempt from taxation under Title 47, Section 801a (m) and (n), and 801b. The Respondent's position is that the Petitioner does not qualify under Section (m), and apparently there is some authority for this position in the case of Trustees of St. Paul Methodist Episcopal Church South v. District of Columbia, cited at 212 F.2d 244. In that case it was held that the ownership and use of the property must be concurrent, that it must be in one and the same entity. Based on that ruling, which this Court must follow, the Court will deny the exemption under Section (m) of the Code.

The property in question, however, does qualify under Section (n) of the Code, and the Court is relying on the case of District of Columbia v. Maryland Synod of the Lutheran Church of America, cited at 307 A.2d 735. In that case the Court of

Appeals held that Sections (m) and (n) were not mutually exclusive, but were complementary. Thus, the mere fact that the petitioner is designated as a church in Section (m) does not mean that it could not qualify under other sections of the exemption statute.

The Court, therefore, is going to hold and conclude as a matter of law in this case that the petitioner does qualify under Section (n) which deals with religious corporations. It is important to note that the property in this case is being used as a church, and the only problem is that there is not concurrent ownership and use as required under Section (m) of the statute, but surely there is no such requirement under Section (n).

In Title 47, Section 801b there is a limitation on exemption to corporations and organizations mentioned in 801a to the extent that any property owned by an organization entitled to exemption entitled to exemption, which is used to secure rent or income for any activity other than that for which exemption is granted, can be taxed. In this case the subject property is owned by a church, and being used as a church qualifies under both Sections 801a and 801b. This is according to the case of District of Columbia v. Catholic University of America, in which the Court of Appeals clearly held that concurrent use and ownership was not a requirement.

The Court is, in effect, concluding as a matter of law that there is no dispute as to the material facts in issue in this case, and that the petitioner is qualified for real estate tax exemption under Section 801a (n) and 801 b of the Code. The Court is rejecting the claim that the petitioner is entitled to an exemption under 801a (m).

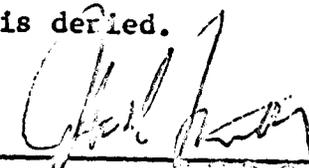
It is, therefore, by the Court, this 8th day of

January 1980

ORDERED, that the Petitioner's Motion for Summary Judgment be and the same hereby is granted, and that the Petitioner is entitled to exemption on the subject property, and it is further

ORDERED, that all taxes assessed against Lot 802, Square 896, designated as 700 A Street, Northeast, in the District of Columbia, be and the same hereby is cancelled, and that said property be returned to the tax exempt rolls as of July 1, 1977, and it is further

ORDERED, that the Respondent's cross-Motion for Summary Judgment be and the same hereby is denied.



J U D G E

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