

5. Plaintiffs did not directly place title to the disputed real estate at issue in their Complaint. Plaintiffs alleged various claims related to criminal activities, including theft, criminal mischief, conversion, trespass, burglary, and residential entry. Plaintiffs did allege in Paragraph One that they owned certain real estate in Muncie, Delaware County, Indiana, specifically: the premises and land described as 821 South Hackley Street and 815 South Hackley Street but did not request a declaratory judgment as to the title to the real estate.
6. COGIC placed the title to the real estate at issue in its Answer to Complaint and Counterclaim, filed on April 2, 2012. COGIC claimed that it held title to the real estate and sought a judgment from this Court to that effect. COGIC also alleged Plaintiffs had removed church fixtures from the real estate.

37. Facts that do not support COGIC's argument that Mt. Olive had the intent to establish an implied trust:

Mt. Olive has never enacted any by-laws binding them to COGIC or the COGIC constitution or any of the provisions related to real property set out above. (At least, no such by-laws were introduced into evidence, and no one testified as to any such by-laws.)

Mt. Olive is an unincorporated association, and no articles of incorporation or other legal document recognize the COGIC authority over them. Traditionally, unincorporated associations have had no capacity as an entity to own real estate. The remedy has been to title real estate in the name of the "trustees" and the "successors in office" in a representative capacity. Indiana Code 23-10-2-1 through 22 provides specifically for this power. Therefore, Mt. Olive held title or attempted to hold title at all times consistent with the way an unincorporated association holds title to real estate under Indiana law.

Mt. Olive has never obtained any financial benefit from its relationship with COGIC. Mt. Olive parishioners provided all the financial support for the purchase and maintenance of the church property.

Bishop Enoch Perry III, the COGIC general counsel since 1993, testified COGIC knew local churches were using deeds for transferring real estate which were not in compliance with the above provisions in the COGIC constitution but did not act to ensure compliance.

38. COGIC has the burden of proving the settlor, Mt. Olive Church of God in Christ, intended to create an implied trust. The Court finds COGIC has failed to meet its burden.

VIII. Dissolving the Injunction.

43. The injunction previously entered by this Court is hereby dissolved. Based upon the above findings, the Court finds all remaining issues are matters related to local church governance.
44. The Local Church will have to resolve all these issues through church law, and the Court cannot interfere with these decisions.

XI. Judgment.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Court enters Judgment in favor of Plaintiffs and against Defendants as to the request for Declaratory Relief in the Defendants' Counterclaim. Defendants do not hold an express or implied trust over any real estate titled in the name of Mt. Olive Church of God in Christ or the named or unnamed trustees of Mt. Olive Church of God in Christ. Specifically, Defendants do not hold an express or implied trust over any of the following parcels of real estate:

Analysis; Church of God in Christ does not hold an express nor does it hold an implied trust over any real estate owned by Mt. Olive Church of God in Christ listed below

- #1: Church parcel: Lot Number 35 in Galliher's Fourth Addition, with a street address of 821 South Hackley Street, Muncie, Indiana
- #2: Church parcel: Lot Number 34 in Galliher's Fourth Addition.
- #3: Day Care parcel: Lot Number 24 in Maryville Addition.
- #4: Day Care parcel: Lot Number 19 in Marysville Addition.
- #5: Day Care parcel: Lot Number 30 in Marysville's Addition.
- #7: Residence parcel—Lot Number 34 and the South Half of Lot Number 33 in Galliher's Fourth Addition, with a street address of 815 South Hackley Street, Muncie, Indiana
- #8: Wolf Street parcel—Lot Number 6 in Sarah M. Mock's First Addition to the City of Muncie, with a street address of 900 South Wolf Street, Muncie, Indiana.

Highlights from Mt. Olive vs. COGIC

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Court enters judgment in favor of Defendants, Michigan Western Jurisdiction of Church of God in Christ, Inc., Bishop Nathaniel Wells, Jr., and Victor Champion, and against Plaintiffs, Dorothy Branson and David Branson, in the amount of \$500.00, along with interest at the rate set out by Indiana until paid in full.

This judgment is limited to \$500.00 plus interest until paid in full. This was because of a wrongful injunction. Also the signs must be replaced.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that judgment is entered in Defendants' favor as to the allegations in the Counterclaim. The Court ORDERS Plaintiffs to return the sign from the Church building, reinstall it, and restore it to its former condition within Ten (10) Days from the below date.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this judgment applies to all real estate within Delaware County, Indiana, titled to Mt. Olive (or Mt. Olive Temple) Church of God in Christ or to its named or unnamed trustees.

SO ORDERED this 24th day of August, 2012.


Judge, Delaware Circuit Court No. 1