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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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IO-DIS-E-CA Corporation,	)	Filed March 20, 1984
Plaintiff-Appellee,	)	
vs.	)	4-21 83-634
THE BOARD OF REVIEW OF JOHNSON COUNTY, IOWA,	)	
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Johnson County-Larry J. Conmey, Judge.

Defendant appeals the district court's decision reversing defendant's decision that a single family dwelling located on the plaintiff's campgrounds and occupied by the plaintiff's camp manager and assistant camp manager and surrounding one acre of land were only partially exempt from real estate taxation pursuant to Iowa Code section 427.1(9)(1981). AFFIRMED.

J. Patrick White, County Attorney, for defendant-appellant.

Thomas D. Hobart of Meardon, Sueppel, Downer & Hayes, Iowa City, for plaintiff-appellee.

Heard by Oxberger, C.J., and Donielson, and Snell, JJ.

The Board of Review appeals the district court's ruling reversing the Board's decision that a single-family dwelling and surrounding one acre of land were only partially exempt from real estate taxation pursuant to Iowa Code section 427.1(9). We affirm.

The plaintiff, a church auxiliary organization, was a nonprofit corporation operating a church camp in Johnson county. In 1980 a single-family dwelling for the camp manager and assistant camp manager, husband and wife, was constructed with donations and volunteer labor and materials. The house has a main floor with a living room, dining room, kitchen, three bedrooms and a bath and basement with a large meeting room, bathroom, bedroom, and kitchenette. Attached to the house is an oversized garage which is used to house the camp vehicle, the camp manager's vehicle, and a camp workshop. The main floor is generally maintained as the personal residence for the camp manager's family although it is sometimes used for camp activities; the basement is normally used for camp programs. The camp manager handles tasks that are custodial in nature but also supervises the operation of the camp when the director is absent and counsels and assists campers and retreaters. He also assists in religious services, training, and programming. The assistant camp manager performs clerical duties, does religious programming and counseling, and assists in the supervision of the camp. The camp manager and the assistant camp manager do not have any formal religious training, are not subject to religious "call," and are not ordained ministers. However, they have committed themselves to religious work and have been described as nonordained ministers.

Prior to 1981, plaintiff's entire camp received a charitable exemption from property tax under Iowa Code section 427.1(9). In July 1981, the county assessor

denied the plaintiff's requests for an exemption for the fiscal year commencing July 1, 1982, with regard to the dwelling and the surrounding one acre on the campsite. On April 30, 1982, the plaintiff filed a petition with the county board of review, seeking review of the assessor's decision. After a hearing, the board held that only the lower one-half of the dwelling was used solely for religious purposes and the one-half of the total value of the property should be exempt from real estate taxation. The plaintiff appealed to the district court asserting that the property should receive a total charitable exemption. After a hearing the court entered a decision reversing the board's decision insofar as it held that one-half the subject property was not exempt from real estate taxation and directed the county assessor to remove the property from the tax rolls for the fiscal year which commenced on July 1, 1982. In reaching this result, the district court determined that the camp manager and assistant camp manager were ecclesiastical personnel and that the use of the dwelling was solely for religious purposes.

I. Scope of Review

In tax exemption cases, our review is de novo. Southside Church of Christ v. Des Moines, Etc., 243 N.W.2d 650, 651 (Iowa 1976). "[I]t is the court's responsibility to review the facts as well as the law and adjudicate rights anew on those propositions properly presented, provided issues have been raised and error, if any, preserved in the course of the trial court's proceedings. While weight will be given to the findings of the trial court this court will not abdicate its function as triers de novo on appeal." Id. at 652.

II. Nonecclesiastical Personnel

In Congregation B'Nai Jeshurun v. Board of Review of the City of Des Moines, 301 N.W.2d 755 (Iowa 1981), the court stated that "housing of a religious institution or society, separate from the religious edifice itself and occupied by nonecclesiastical personnel, does not qualify for property tax exemption." Id. at

759. The appellant's claim that Mr. and Mrs. Schroeder, the camp managers, are not ecclesiastical personnel; therefore, their dwelling area, per B'Nai Jeshurun, could not qualify for a tax exemption. However, we do not find the Schroeders to be of the same classification as was the personnel in the B'Nai Jeshurun case.

In that case the dwelling in question was occupied by the Temple's custodian who performed no religious duties. In this case, Mr. and Mrs. Schroeder serve as retreat hosts for the camp; they provide the security for the camp facilities and people; they are on call all day and all night for emergency medical information and treatment; they counsel and train the camp staff; they provide some religious teaching; and they help plan and program the camp activities. Accordingly, we do not find the Schroeders to be nonecclesiastical personnel as that term is used in the B'Nai Jeshurun case so as to make this property nonexempt without further discussion. Therefore, we turn to the issue of whether the entire dwelling house is exempt under Iowa Code section 427.1(9).

III. Religious Tax Exemption

The statute controlling this case is Iowa Code section 427.1(9). That section states in part:

> Exemptions. the following classes of property shall not be taxed:
>
> 9. Property of religious, literary, and charitable societies. All grounds and buildings used or under construction by literary, scientific, charitable, benevolent, agricultural, and religious institutions and societies solely for their appropriate objects, not exceeding three hundred twenty acres in extent and not leased or otherwise used or under construction with a view to pecuniary profit.

Iowa Code § 427.1(9). The rule is that tax exemption statutes are to be strictly construed with any doubt resolved in favor of taxation and against exemption. Parshall Christian Order v. Bd. of Review, Etc., 315 N.W.2d 798, 801 (Iowa 1982). The party seeking the exemption has the burden of proving that the property in question falls within the exemption statutes. Id. at 801. The question must be resolved by the actual use to which the property is committed. Id. at 801.

There are three requirements of section 427.1(9). See B'Nai Jeshurun at 756 for a detailed explanation. However, as appellants concede, we need only deal with the second requirement, which is "the use by the religious institutions and societies must be 'solely for their appropriate objects.' " Our de novo review of the record convinces us that the plaintiffs have met their burden.

Even though the Schroeders maintain the main floor of the dwelling in question as their private residence, the living room is used all year long to greet persons who arrive at the camp on business. In order to accommodate that use, the Schroeders converted a main floor bedroom into a TV room to avoid "the clutter that a TV room generates such as newspapers, etcetera, to be in [the] living room." The kitchen of the Schroeders' home is used occasionally to augment the camp kitchen when larger groups use the camp. The entire house, with the exception of the bedrooms, is used frequently by the camp for meetings.

Furthermore, the only telephone within the Schroeder residence is a camp phone. It is answered "Camp IO-DIS-E-CA" twenty-four hours a day. The Schroeders, as managers, will schedule retreats and provide information about the camp through the use of that phone. In fact, a special desk was constructed within the kitchen area in order to accommodate Mrs. Schroeder in making appointments and dealing with camp business.

Mrs. Schroeder is paid an hourly wage for a 19-hour work week as assistant camp manager. However, the evidence indicated that she contributes many more hours a week to the camp. Mr. Schroeder is required to live in the house as it is necessary to perform and carry out the duties and objects of Camp IO-DIS-E-CA. See Wisconsin Evangelical Lutheran Synod v. Regis, 197 N.W.2d 355, 357 (Iowa 1972). Even though Mr. Schroeder and his family occupy as their home this residence owned by the church, both Mr. and Mrs. Schroeder need to use that home to meet the needs of the camp and its staff. Cf. Trinity Lutheran Church of Des Moines v. Browner, 121 N.W.2d 131, 133 (Iowa 1963). Furthermore, the record

reveals that the camp manager and assistant manager must be dedicated Christians and be members of the Lutheran Church Missouri Synod.

Our review of the record reveals that the work of Camp IO-DIS-E-CA pervades the Schroeders' private lives. As such, we are convinced that this dwelling is more closely analogous to a parsonage or parish house owned by the church for use of its pastor, see Trinity at 133, than to the foster home situation in Southside Church of Christ v. Des Moines Board of Review, 243 N.W.2d 650 (Iowa 1976) as appellants contend.

Accordingly, we affirm the ruling of the trial court directing the assessor to remove the property from the tax rolls for the fiscal year commencing July 1, 1982.

AFFIRMED.

All judges concur except Snell, J., who dissents.

SNELL, J. (dissenting)

I respectfully dissent.

Although the similarity between this case and Trinity Lutheran Church v. Browner, 255 Iowa 197, 121 N.W.2d 131 (1963), is readily apparent and the factual situations are difficult to distinguish, I believe that the holding in Trinity no longer states the law. In Trinity, the tax exemption was granted for a church-owned residence occupied by the church's teaching minister who acted as organist, choir director, and religious teacher. The court relied for its holding on Trustees of Griswold College v. Iowa, 46 Iowa 275 (Iowa 1877), in which the court had granted an exemption 85 years earlier and had invited legislative action if it disagreed with the result. No legislative change had occurred between Griswold and Trinity. Based on stare decisis, the court decided that Trinity Lutheran Church was entitled to the tax exemption.

The court in Trinity again invited legislative change "if it be the legislative will." Trinity at 204, 121 N.W.2d at 135. Although no legislative action has been forthcoming, other change has. The Trinity case "appears to have been the high water mark in this jurisdiction." Congregation B'Nai Jeshurun v. Board of Review, 301 N.W.2d 755, 758 (Iowa 1981).

In Wisconsin Evangelical Lutheran Synod v. Regis, 197 N.W.2d 355 (Iowa 1972), the supreme court held that a church-owned residence used by an employee who taught school in the church building did not qualify for the exemption. The court observed, "[a]n exemption in this case would break the bough of logic bent by Griswold and Trinity." Id. at 357. The court has also found the statute did not allow an exemption for a church-owned residence maintained to provide care for foster children through foster parents who lived in the home rent-free and who made substantial donations to the church. Southside Church of Christ v. Des Moines Board of Review, 243 N.W.2d 650, 655 (Iowa 1976). In analyzing the state of the law, the court in Southside Church, interpreted Wisconsin Evangelical as

abandoning the reasoning upon which Griswold and Trinity were based. Id. at 654. It was again noted that the "trend toward disallowing exemptions '. . . flows from the increasing extent and value of exempt property not on the tax rolls, and the resulting impact on the property taxpayer.'" Id. (quoting Wisconsin Evangelical at 357). The court further observed that "the battle to win exemption has become an increasingly uphill one." Id.

Recently in Congregation B'Nai Jeshurun v. Board of Review, 301 N.W.2d 755 (Iowa 1981), the court again found that a church-owned residence occupied by the church custodian was not entitled to a tax exemption under the statute. This conclusion emphasized that the statutory exemption is allowed only to grounds and buildings used "'solely' for the 'appropriate objects,'" and that this language must be strictly rather than broadly construed. Id. at 759.

I believe the import of the cases decided since the Trinity Lutheran Church decision in 1963 is that the law has changed, notwithstanding an absence of legislative action. Under the guidelines now established, I find that IO-DIS-E-CA Corporation has failed to prove that the dwelling occupied by its camp manager is entitled to the tax exemption under section 427.1(9). Although the board of review granted a tax exemption for the basement portion of the dwelling, which amounted to a one-half tax exemption, that decision has not been appealed. Accordingly, I would reverse and reinstate the decision of the board of review.