

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2285

September Term, 2019

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ESTATE OF JOHN R. JOHNSON

v.

SANCTUARY PROGRESSIVE  
COMMUNITY CHURCH OF GOD IN  
CHRIST, INC., et al.

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Leahy,  
Shaw Geter,  
Zarnoch, Robert A.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Shaw Geter, J.

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Filed: May 18, 2021

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal arises from an order of the Circuit Court for Frederick County dismissing a petition to remove cloud from the title of real property.<sup>1</sup> For the following reasons, we shall affirm.

### **BACKGROUND**

On July 26, 2019, the Estate of John R. Johnson (“the Estate”), appellant, by and through its personal representative, Beth Johnson, filed a “Petition to Remove Cloud” from the title of 5.313 acres of real property with a premises address of 9523 Fingerboard Road, Ijamsville, Maryland (“subject property”). The petition named the following defendants: Sanctuary Progressive Community Church of God in Christ, Inc. C.O.G.I.C; Diana Kemp, Trustee; Detrick Edwards, Trustee; and Yvette Campbell, Trustee.

The Estate alleged that, in March 1990, the subject property was deeded to John Johnson and Paul Kemp as trustees for Sanctuary Progressive Community Church, an unincorporated association.<sup>2</sup> The Estate further alleged that, between 2000 and 2010, there were a series of “improper and illegal” documents filed in the Frederick County Department of Land Records that (1) purported to remove Mr. Johnson as a trustee and (2) assigned ownership of the subject property to Yvette Campbell and Detrick Edwards as

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<sup>1</sup> The appellant presented the following question in its brief:

Was the Circuit Court[’s] dismissal of the Appellant’s Case legally correct when Md. Code, Estates and Trusts §§ 4-403 gives legal standing authority to the Personal Representative of the Decedent’s estate to pursue all civil actions of partition, prior to the formal or informal closing of the estate[?]

<sup>2</sup> There is no indication in the record that there is a formal trust agreement that governs the trust.

trustees of an incorporated entity named “Sanctuary Progressive Community Church of God in Christ, Inc.” The petition alleged that the names of the unincorporated association and the corporation had been “willfully and intentionally interchanged . . . for intentions of adverse possession[.]” and that the Estate “was ousted of possession and kept out uninterruptedly [sic] since June 26, 2000 by an open, visible and exclusive possession by the [appellees], under a claim of right, with the intention of using the property as their own, and without the owner’s consent.”

A motion to dismiss the petition for lack of standing was filed by appellees, Diana Kemp and Yvette Campbell, as trustees of Sanctuary Progressive Community Church of God in Christ, Inc. Appellees asserted that, although Mr. Johnson was a former trustee for “Sanctuary Progressive [sic] Church, Unincorporated Association,” and a trustee for “Sanctuary Progressive Community Church of God in Christ, Inc.,” the Estate did not become a successor trustee of either entity upon Mr. Johnson’s death. Therefore, according to appellees, the Estate lacked standing to bring an action to remove cloud from the title of trust property.

Attached as an exhibit to the motion to dismiss were Articles of Incorporation dated May 25, 1989, establishing Sanctuary Progressive Community Church of God in Christ, Inc. as a religious corporation pursuant to Title 5, Subchapter 3 of the Corporations and Associations Article. The articles, which were signed by Mr. Johnson and three other individuals, list Mr. Johnson and Paul Kemp as one of six initial trustees of the religious corporation and provide that the number of trustees “shall never be less than Four (4)[.]” Also attached to the motion to dismiss was a copy of a deed dated March 26, 1990, ten

months after the religious corporation was established, granting and conveying property to “John P. Johnson & Paul E. Kemp, Trustees for Sanctuary Progressive Community Church.” According to the petition filed by the Estate, Paul Kemp died in June 2019. We see nothing in the record establishing Mr. Johnson’s date of death.

Following a hearing, the court issued an order granting the motion to dismiss. The court reasoned that “[a]ny property interest as a trustee held by John R. Johnson during his life was extinguished immediately upon his death,” and that “any vacancy in trusteeship that occurred when John R. Johnson died did not need to be filled, because there were one or more cotrustees who remained in office.” The court concluded that, “[a]s such, the Estate of John R. Johnson has no standing to file a Complaint to remove cloud as to title against the surviving cotrustees of either Sanctuary Progressive Church, Unincorporated Association, or Sanctuary Progressive Community Church of God in Christ, Inc. a Religious Corporation of the State of Maryland[.]”

This timely appeal followed.

### **DISCUSSION**

A court’s decision on a motion to dismiss “does not pass on the merits of the claims; it merely determines the plaintiff’s right to bring the action.” *Lloyd v. General Motors Corp.*, 397 Md. 108, 122 (2007)). “We review a trial court’s grant of a motion to dismiss, without deference, to determine whether it was legally correct.” *Barclay v. Castruccio*, 469 Md. 368, 373 (2020) (citation omitted). In doing so, “we must assume the truth of all relevant and material facts that are well pleaded and all inferences which can reasonably be drawn from those pleadings.” *Id.* (citation omitted).

“In order ‘to invoke the judicial process in a particular instance[,]’ a litigant must have standing.” *Ibru v. Ibru*, 239 Md. App. 17, 41 (2018) (quoting *Long Green Valley Ass’n v. Bellevale Farms, Inc.*, 205 Md. App. 636, 652 (2012)) (additional citation and quotation marks omitted). Standing to request relief from a court “rests on ‘a legal interest such as one of property, one arising out of a contract, one protected against tortious invasion, or one founded on a statute which confers a privilege.’” *Id.* (quoting *Long Green Valley*, 205 Md. App. at 652) (additional citation and quotation marks omitted.). The requirement of standing “is an element of the larger question of justiciability and is designed to ensure that a party seeking relief has a sufficiently cognizable stake in the outcome so as to present a court with a dispute that is capable of judicial resolution.” *Morris v. Goodwin*, 230 Md. App. 395, 406 (2016) (quoting *Kendall v. Howard County.*, 431 Md. 590, 603 (2013)). Dismissal is appropriate where the petitioner lacks standing. *See e.g. Kendall*, 431 Md. 590, 615 (2013) (holding that the circuit court properly dismissed an action where petitioners had not established standing).

Standing to bring an action to quiet title or remove cloud from title to real property is governed by Maryland Code (1974, 2015 Repl. Vol.), Real Property Article (“RP”), § 14-108(a). Pursuant to that statute, an action may be maintained only by persons in actual or constructive possession of the property. It provides:<sup>3</sup>

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<sup>3</sup> “Person” for purposes of RP § 14-108(a) “includes an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.” RP § 1-101(j).

[a]ny person in actual peaceable possession of property, or, if the property is vacant and unoccupied, in constructive and peaceable possession of it, either under color of title or claim of right by reason of the person or the person’s predecessor’s adverse possession for the statutory period, when the person’s title to the property is denied or disputed, or when any other person claims, of record or otherwise to own the property, or any part of it, or to hold any lien encumbrance on it, regardless of whether or not the hostile outstanding claim is being actively asserted, and if an action at law or proceeding in equity is not pending to enforce or test the validity of the title, lien, encumbrance, or other adverse claim, the person may maintain a suit in accordance with Subtitle 6 of this title in the circuit court for the county where the property or any part of the property is located to quiet or remove any cloud from the title, or determine any adverse claim.

The Estate contends that Mr. Johnson had an ownership interest in the property that passed to the Estate upon his death and, therefore, the personal representative of the Estate and/or the sole heir of the Estate has legal standing to pursue an action to quiet title or remove cloud from the title.<sup>4</sup> We find no merit in this contention.

“A trust exists where the legal title to property is held by one or more persons, under an equitable obligation to convey, apply, or deal with such property for the benefit of other persons.” *From the Heart Church Ministries, Inc. v. African M.E. Zion Church*, 370 Md. 152, 181–82 (2002) (citing *Milholland v. Whalen*, 89 Md. 212, 213–14 (1899)). “The trustee’s interest is a bare legal interest, not entitling him [or her] to any benefit or profit from the trust property.” H. Shapo, G. Bogert & G. Bogert, *Trusts and Trustees*, § 146, at 55 (3d ed. 2007). *See also North Carolina Dep’t of Revenue v. The Kimberley Rice*

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<sup>4</sup> The Estate asserts, incorrectly, that standing to bring an action to remove cloud from title is conferred upon the personal representative of the Estate pursuant to § 4-403 of the Estates and Trusts Article. That statute, which governs situations where a person to whom property is bequeathed in a will dies before the testator of the will, has no bearing on the issue before us.

*Kaestner 1992 Family Trust*, 139 S. Ct. 2213, 2218 (2019) (a trust “comprises the separate interests of the beneficiary, who has an ‘equitable interest’ in the trust property, and the trustee, who has a ‘legal interest’ in that property”).

Upon the death of a trustee, “the trust property does not pass to the trustee’s estate, but remains for the benefit of the beneficiary because the trustee holds it in trust for the beneficiary should the trustee outlive the beneficiary.” *Board of Incorporators of African Methodist Episcopal Church, Inc. v. Mt. Olive African Methodist Episcopal Church of Fruitland, Inc.*, 108 Md. App. 551, 582 (1996) (citing *Barker v. Aiello*, 84 Md. App. 629, 631 n.1, (1990), (*rev’d on other grounds*, 348 Md. 299 (1997))). *See also* Shapo, *et al.*, *Trusts and Trustees*, § 146 at 55–56 (“On the death of the trustee the trust assets do not become part of [the trustee’s] estate subject to claims.”). Moreover, upon the death of a trustee, “neither the office of trustee nor the powers of such office actually pass [to the personal representative of the estate of the trustee], such office merely becoming vacant[.]”<sup>5</sup> *Wier v. Howard Hughes Medical Institute*, 407 A. 2d 1051, 1056 (Del. 1979) (citing *Kech v. McKinstry*, 221 N.W. 851 (Iowa 1928), 2 Scott on Trusts s 104, and Restatement of the Law 2d, Trusts, s 104, p. 233.)

Even assuming the truth of all relevant and material facts alleged in the petition filed by the Estate, that is, that the subject property is or was owned by a trust for the benefit of the unincorporated association known as Sanctuary Progressive Community Church, and

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<sup>5</sup> A vacancy in a cotrusteeship does not need to be filled if one or more cotrustees remain in office. Md. Code (1974, 2017 Repl. Vol.), Estates and Trusts Article (“ET”), § 14.5-704(b)(1). Under such circumstances, the remaining cotrustees are authorized to act for the trust. ET § 14.5-703(a).

that Mr. Johnson was never legitimately removed as a trustee of either the unincorporated association or the religious corporation during his lifetime, any legal interest in the subject property held by Mr. Johnson as a trustee was extinguished upon his death and did not pass to the Estate. Accordingly, we conclude that the Estate, having no possession, actual or constructive, of the subject property, lacked standing to pursue an action to quiet title or remove cloud from the title of the subject property. The court did not err in granting appellee’s motion to dismiss.

**JUDGMENT OF THE CIRCUIT COURT  
FOR FREDERICK COUNTY AFFIRMED.  
COSTS TO BE PAID BY APPELLANT.**