

ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



Bethel Restoration Ministries v. Greaves, 2023 ONSC 3972

Ontario Superior Court of Justice, E M Morgan J, 4 July 2023

Whether a settlement between two church factions could be enforced by a Court.

Key words: Church, Ontario, Canada, Settlement, Justiciability, Doctrinal Dispute, Authority

1. The Bethel Restoration Ministries (Bethel) was a church that owned property in Toronto, Ontario (the property).
2. It split into two factions, the Noble group and the Greaves group. The Greaves group included the former minister.
3. In 2017, both groups held a formal mediation before a former judge. Both were legally represented.
4. At the time, the Noble group held themselves out as having authority to bind Bethel.
5. The Noble group agreed in the recorded settlement to pay the Greaves group their legal fees for the mediation, and then a further \$300,000 according to a payment schedule. It was further agreed that if the property was sold within 10 years, then a lump sum of \$1m was to be paid to the Greaves group.
6. After the settlement, the advent of COVID, and the consequent impact on its finances, Bethel was unable to make all the payments.
7. The Greaves group sought to enforce the settlement before the Court, and the Noble group challenged the Court's jurisdiction to hear the matter.
8. The Greaves Group argued that the settlement was an enforceable contract freely entered into between two sides, each of which was represented by counsel.
9. The Noble group argued that:
 - on the authority of [Highwood Congregation of Jehovah's Witnesses \(Judicial Committee\) v. Wall](#), [2018] 1 SCR 750 and [Ethiopian Orthodox Tewahedo Church of Canada St. Mary Cathedral v. Aga](#), 2021 SCC 22, theological or religious disputes were not amenable to judicial determination and there was no intention to enter into legal relations with the church;
 - the terms of the settlement were fundamentally unfair and the group was wrongly advised by its lawyer; and
 - the settlement was beyond the authority contained in Bethel's constitution/by-laws.

10. The Court found that the two cases cited did not apply in this situation. A case that deals with money and property that belongs to a religious body is within the Court's inherent jurisdiction, and does not involve enforcing religious doctrine.
11. The Court found that there were no grounds to exercise its discretion not to grant summary judgment on the settlement agreement because of a mistake by a lawyer about their instructions to accept the settlement, the prejudice to the parties of enforcing or not enforcing the settlement, and the effect on third parties.
12. The Court noted that (at [16]):

...the by-laws of Bethel give the board the power to administer its funds, deal with its property, and to bring and respond to legal actions. Although Noble's counsel submits that the Minutes were beyond the authority contained in Bethel's constitution/by-laws, it is apparent to me that the Minutes were not contrary to the church's authority. Like any not-for-profit organization, Bethel had to have authority to deal with its property and treasury; otherwise, it would not have been able to function as an entity. It had to be able to pay its bills, administer its real estate, and allocate its assets among its members if the circumstances called for that.

13. The Court ordered that the settlement be enforced.

COMMENT



The Court noted at [10]:

With the greatest of respect, the parties' dispute is over mammon, not canon: Matthew: 6:24.

The Noble Group advised the Court (at [22]):

...that they have refrained from bringing an action against their lawyer only out of a sense of goodwill and charity:

We realize as the Council of Elders that the lawyer who we hired should also be part of this current court process as a defendant/respondent but the truth is, BRM is not in the business of suing its lawyers and so, we have engaged forgiveness in this instant situation as we wish to close this chapter of our history.

And the Court remarked (at [23]):

I do not know whether Noble's former lawyers did anything actionable. And I applaud the benevolent sentiment expressed in the Noble Group's aversion to suing their own one-time lawyer. But if they feel they suffered loss because their lawyer did not properly advise them upon concluding the settlement and signing the Minutes, they cannot offload that claim onto the Greaves Group.

Bethel is first referred to in the Bible as being near the place where Abram pitched his tent. Later, Bethel is mentioned as the location of Jacob dreaming of a ladder leading to heaven, which he names Bethel (House of God), previously

known as Luz (Genesis 28:19). Jacob was fleeing his home in fear of his elder brother Esau. He had, by an elaborate double deception, managed to obtain his elder brother's birthright from their father.¹

VIEW THE CASE



This case may be viewed at: <https://www.canlii.org/en/on/onsc/doc/2023/2023onsc3972/2023onsc3972.html>

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Date of creation: July 2023

Number of case: 2023-94

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ACPNS acknowledges the funding assistance of Our Community to produce the ACPNS Legal Case Notes Series.



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RESEARCH

COURSES

RESOURCES

EVENTS