

(Cite as: 118 Cal.App.4th 919, 13 Cal.Rptr.3d 552)

**Briefs and Other Related Documents**

Court of Appeal, Second District, Division 1,  
California.

GUARDIAN ANGEL POLISH NATIONAL  
CATHOLIC CHURCH OF LOS ANGELES,  
INC., Plaintiff,

Cross-defendant and Respondent,

v.

Casimir J. GROTNIK et al., Defendants,  
Cross-complainants and Appellants.

No. B163347.

April 29, 2004.

As Corrected May 18, 2004.

**Background:** Local church parish that severed its ties with national church brought action against national church and its bishop, to resolve dispute over the right to property that had belonged to parish. Defendants cross-complained. The Superior Court, Los Angeles County, No. BC238212, Jon M. Mayeda, J., found that property belonged to parish.

**Holdings:** The Court of Appeal, Spencer, P.J., held that:

- (1) failure by board of directors of parish to obtain diocesan approval of board's election made all acts of purported board unauthorized and a nullity, and
- (2) property of parish reverted to national church after parish's unapproved board voted to sever ties with national church.

Reversed with directions.

West Headnotes

**[1] Religious Societies** 11

332k11 Most Cited Cases

The failure by the board of directors of a local church parish to obtain

diocesan approval of the board's election made all acts of the purported board unauthorized and consequently a nullity, including the board's decision to sever the parish's ties with the national church; constitution of the national church required diocesan approval before the board of directors was authorized to act.

**[2] Religious Societies** 25

332k25 Most Cited Cases

National church and its bishop were not entitled to seek recovery against local parish for trespass or to seek ejection, following the decision by parish's board of directors to sever parish's ties with national church, inasmuch as the parish remained a parish of the national church after board failed to obtain diocesan approval of board's election, making all of its actions unauthorized and a nullity.

**[3] Religious Societies** 23(3)

332k23(3) Most Cited Cases

National church and its bishop were entitled to an accounting from the board of directors of a local parish of the church, along with damages for the conversion of any personal property, following the decision by the board of directors to sever ties with the national church; board's action to sever ties was invalid, inasmuch as election of board was never approved by diocese, and therefore, local parish was still bound by constitution of the national church to comply with church's financial and property laws.

**[4] Religious Societies** 23(3)

332k23(3) Most Cited Cases

Property of local church parish reverted to national church after parish's unapproved board of directors voted to sever ties with national church; parish was bound by the constitution, laws, rules and regulations of the national church, which provided that local parish owned parish property only so long as parish conformed to the laws of the national church, and that such property reverted to the

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national church when parish dissolved.

See 9 Witkin, *Summary of Cal. Law* (9th ed. 1989) *Corporations*, § 453 et seq.; *Cal. Jur. 3d, Religious Organizations*, § 29 et seq.

#### [5] Religious Societies ↪24

332k24 Most Cited Cases

In settling a church property dispute, courts must apply neutral principles of law, developed for use in all property disputes, which can be applied without "establishing" churches to which the property is awarded.

#### [6] Religious Societies ↪18

332k18 Most Cited Cases

In settling a church property dispute, courts generally consider (1) the deeds to the property, (2) the articles of incorporation of the local church, (3) the constitution, canons, and rules of the general church, and (4) relevant state statutes, if any, governing possession and disposition of such property.

#### [7] Religious Societies ↪18

332k18 Most Cited Cases

Provisions found in a general church's constitution can override any right the majority of a local congregation might otherwise have to control the local church property.

\*\*553 \*921 McKay, Byrne & Graham and Paul A. de Lorimier for Defendants, Cross-complainants and Appellants.

MacCarley & Rosen and Mark MacCarley, Glendale, for Plaintiff, Cross-defendant and Respondent.

SPENCER, P.J.

### INTRODUCTION

Defendants Casimir Grotnik and **Polish National Catholic** Church appeal from a judgment entered in favor of plaintiff Guardian Angel **Polish National Catholic** Church of Los Angeles, Inc. (Guardian Angel parish) after the trial court found that real property consisting of a church and hall and all personal property located therein belong to Guardian Angel parish, and denying relief on

defendants' cross-complaint.

### BACKGROUND

The **Polish National Catholic** Church is and always has been a hierarchical church. The laws of the **Polish National Catholic** Church are drafted and passed at General Synods, after which they are binding on all parishes within the church.

On January 20, 1960, four Polish-American individuals incorporated Guardian Angel parish in Los Angeles. According to the **Polish National Catholic** Church Constitution in effect at the time, a parish "is a collective legal unit within the realm of the **Polish National Catholic** Church possessing a charter or recognition of the Bishop Ordinary of the diocese in whose territory the parish is located, confirmed by the Prime Bishop and organized according to the Constitution, principles, laws and rules of the **Polish National Catholic** Church." (1958 Polish Nat. Catholic Church Const., \*922 art. III, § 1.) A parish is "organized and accepted under the jurisdiction of the **Polish National Catholic** Church and subscribes to, and is bound by all provisions of the Constitution, laws, rules, regulations, customs and usages of the **Polish National Catholic** Church which are in force at the time of its organization or acceptance and/or which may hereafter be adopted by \*\*554 the General Synods of the **Polish National Catholic** Church." (*Id.*, § 2, par. 1.) [FN1]

FN1. The Constitution now in effect, and to which a parish of the **Polish National Catholic** Church was subject in 2000, describes a parish as "an association, either incorporated or otherwise, within the realm of this Church, organized according to the Rite, Constitution, Principles, Laws, Rules, Regulations, Customs and Usages of this Church, possessing a Warrant from the Diocesan Bishop of the Diocese in whose territory the Parish is located, and confirmed by the Prime Bishop."

The articles of incorporation state that "the primary purposes for which this corporation is formed are: [¶] (a) To worship God; [¶] (b) To believe in, and

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to disseminate religious principles proclaimed by Jesus Christ, the Apostles and their successors; [¶] (c) Realization of these truths in the life of the individual, of the family, and of the community; [¶] ] (d) The ecclesiastical or religious affairs of the Church (Congregation) will be conducted in accordance with rules and regulations of a diocesan bishop of the **Polish National Catholic** Church and his rightfully elected successor, who is in union with the Prime Bishop of the **Polish National Catholic** Church of Scranton, Pennsylvania, the most Reverend Leon Grochowski, or with his duly elected successor. [¶] (e) This Church (Congregation) is a democratic body. This means, that in matters of economics and of a social nature, it is subject to the control of those who constitute the organization and who will conduct only their ecclesiastical and religious affairs, consistent with California law, in accordance with the by-laws and rules of the **Polish National Catholic** Church."

The declaration of economic and social independence in the Articles of Incorporation is not inconsistent with the 1958 Constitution of the **Polish National Catholic** Church, which states that "[i]n matters of administration, management and social welfare the **Polish National Catholic** Church derives its authority directly from the people who build, create, believe in, support and care for it. It is a fundamental principle of the **Polish National Catholic** Church that the real property and all the assets of any parish are the property of those people who build, support and conform to the laws of the **Polish National Catholic** Church and who are in union with the parish and the diocese. [¶] The administration and control over the property of the parish belongs to the parish committee which is elected by the parish...." (1958 Polish Nat. Catholic Church Const., art. IV, par. 3.)

In other words, authority within the **Polish National Catholic** Church is divided between the religious and the temporal. While temporal authority \*923 rests with parish members, as noted above, religious authority, or "faith, morals and discipline," rests solely "in the hands of the Bishops and the clergy united with them." (1958 Polish Nat. Catholic Church Const., art. IV, par. 2.) [FN2] The

articles of incorporation recognize this division of authority.

FN2. See also 1998 **Polish National Catholic** Church Constitution, article VI, section 2.

On August 28, 1963, after Father Edward Kalata assumed the duties of parish priest, the members of Guardian Angel parish purchased real property at 1118 North Commonwealth Avenue in Los Angeles. Guardian Angel **Polish National Catholic** Church took title to the property. The Prime Bishop dedicated the building as a **Polish National Catholic** church.

It was not until 1998 that the **Polish National Catholic** Church informed Guardian Angel parish that its articles of incorporation did not conform in all respects to the **Polish National Catholic** Church Constitution, \*\*555 a new version of which had been adopted in that year. On December 6, 1998, at a special meeting of the parish board of directors, the board voted to amend the articles of incorporation to conform to the new constitution.

The physical property of a **Polish National Catholic** Church parish belongs to members of the parish "who conform to the provisions of the constitution, laws, rules, regulations, customs and usages of the **Polish National Catholic** Church." (1958 Polish Nat. Catholic Church Const., art. III, § 2, par. 2.) [FN3] A parish may not be liquidated "without the written permission of the Prime Bishop and the Supreme Council." (*Id.*, par. 4.) [FN4] Moreover, "[i]n the event of either complete liquidation of a parish, or change of title of the property ownership, all property moveable and immoveable becomes the property of **Polish National Catholic** Church." (*Id.*, par. 5.) [FN5]

FN3. See also 1998 **Polish National Catholic** Church Constitution, article V, section 8.

FN4. See also 1998 **Polish National Catholic** Church Constitution, article V, section 9.

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FN5. See also 1998 **Polish National Catholic** Church Constitution, article V, section 10: "When a Parish is liquidated, expelled, ceases to exist, its Warrant lawfully revoked, or title to its Parish property is unlawfully transferred, then all of its legally acquired or accumulated funds, moneys and property, whether real or personal, shall revert to the Diocese in which any of the aforesaid events take place...."

Guardian Angel parish's articles of incorporation do not conform entirely to these provisions of the **Polish National Catholic** Church Constitution. The articles state that "[i]n the event of the dissolution[or] liquidation ... of this corporation ..., none of the property or assets of this corporation shall at such time inure to the benefit of, become the property of, or be payable to any of the members of this corporation. Any property or assets belonging to this corporation at such time shall be transferred, set over, assigned or donated to any other non-profit organization operated exclusively for religious purposes, as may be selected by the board of directors of this \*924 corporation [so that] the property and assets then owned by the corporation shall be devoted to carrying on the function and purposes of religious purposes...." (Arts. of Incorpor., par. 8.)

The bylaws that Guardian Angel parish adopted on November 18, 1963 brought the parish's governance into closer conformity with the national constitution, however. Article V of the bylaws specifies that "[a]ny liquidation of the assets of this corporation shall conform to the various provisions of the Articles of Incorporation of this corporation" (bylaws, § 1); "[n]o parish can be liquidated without the written permission of the Prime Bishop and the Supreme Church Council" (*id.*, § 2); and "[i]n the event of the complete liquidation of a parish, or the change of title of property ownership, all property moveable and immoveable becomes the property of the **Polish National Catholic** Church" (*id.*, § 3).

With respect to membership, the bylaws also

reflect Guardian Angel parish's close connection with the **Polish National Catholic** Church. The 1958 national constitution states in Article III that "[a] believer of the **Polish National Catholic** Church is one who professes the principles of this church and acknowledges them as the norms and rules of his life. (Par. 1.) It also states that "[a] member of the **Polish National Catholic** Church may be a believer of this Church who unites himself with others in a visible society, called a parish, and contributes with his offerings, labor and life, to fulfill the goals of the particular parish and the whole Church." (Par. 2.) Finally, "[a] \*\*556 member of a parish may be anyone who enrolls and obligates himself to fulfill all of the duties defined in this Constitution." (Par. 6.) [FN6]

FN6. See also 1998 **Polish National Catholic** Church Constitution, article IV, paragraphs 1 and 2.

The Guardian Angel parish bylaws state in article III that "[t]his church shall be comprised of members of The Guardian Angel **Polish National Catholic** Church of Los Angeles and of the **Polish National Catholic** Church." (§ 1.) Moreover, "[a] member is one who professes the principles of this church and acknowledges them as the norms and rules of his life and as a believer of the **Polish National Catholic** Church." (§ 2.) In addition, "[a] member is one who unites himself with others in a visible society called a parish, and contributes with his offerings, labor and life, to fulfill the goals of this particular parish and the whole Church." (§ 3.) Finally, "[a] member has the duty to fulfill the purposes as set forth in Article II of the Articles of Incorporation of this corporation which are also set forth in the Constitution and Statute of the Polish National Church." (§ 4.)

Guardian Angel parish's articles of incorporation place governance of the parish in the hands of the parish as a whole and of the board of directors. The \*925 articles of incorporation provide that "the authorized number and qualifications of the trustees (directors) and members of this corporation shall be such as shall be set forth in the By-laws of the corporation ... together with the respective voting