



1998

Establishment of Religion, Court of Appeals: Park Slope Jewish Center v. Congregation B'nai Jacob

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Recommended Citation

(1998) "Establishment of Religion, Court of Appeals: Park Slope Jewish Center v. Congregation B'nai Jacob," *Touro Law Review*: Vol. 14 : No. 3 , Article 31.

Available at: <https://digitalcommons.tourolaw.edu/lawreview/vol14/iss3/31>

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Park Slope Jewish Center v. Congregation B'nai Jacob⁷⁷
(decided October 16, 1997)

The Appellate Division affirmed the dismissal of the plaintiff, Park Slope Jewish Center's, complaint,⁷⁸ which sought compensation for the use and occupancy of plaintiff's lower sanctuary by defendant, Congregation B'nai Jacob. The complaint, which also sought ejectment of the defendant from the premises, was dismissed because the court held that the complaint "presented a controversy over religious doctrine that the courts could not resolve."⁷⁹ Plaintiff appealed to the New York State Court of Appeals, arguing that resolution of this matter by the courts would not violate the Federal Constitution,⁸⁰ specifically the Establishment Clause of the First Amendment of the United States Constitution.⁸¹ The New York State Court of Appeals reversed the order of the Appellate Division holding that the action could have been resolved by applying "neutral principles of law."⁸²

The dispute arose in 1983 after the majority of the membership of the plaintiff's synagogue voted to grant equal rights of worship to women.⁸³ Since the more orthodox members of the synagogue could not abide by this decision, they formed their own congregation, the Congregation B'nai Jacob which held separate services at the Center.⁸⁴ In this same year, plaintiff, brought an action against the defendants for trespass.⁸⁵ Plaintiff's action was

⁷⁷ 90 N.Y.2d 517, 664 N.Y.S.2d 236 (1997).

⁷⁸ *Id.* at 519, 664 N.Y.S.2d at 236.

⁷⁹ *Id.*

⁸⁰ U.S. CONST. amend. I. The First Amendment states in pertinent part: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ." *Id.*

⁸¹ *Park Slope Jewish Center*, 90 N.Y.2d at 521, 664 N.Y.S.2d at 237.

⁸² *Id.* at 522, 664 N.Y.S.2d at 238.

⁸³ *Id.* at 519, 664 N.Y.S.2d at 236.

⁸⁴ *Id.*

⁸⁵ *Id.*

resolved by a stipulation in the New York State Supreme Court in May of 1984,⁸⁶ providing plaintiff the right to retain ownership of the premises.⁸⁷ More specifically, plaintiff was given the right to hold its services in the main sanctuary, while the defendant was given permission to use the lower sanctuary for holding its religious services.⁸⁸ The stipulation also entitled the plaintiff to be paid \$460 per month by the defendant for using the lower sanctuary.⁸⁹ The members of the defendant's congregation were able to become members of the plaintiff's congregation on the same terms as plaintiff's members, however, plaintiff was given the right to decide the criteria for membership without any limitations.⁹⁰ Any of the membership dues paid to the plaintiff by any members of the defendant's congregation would be credited to the defendant against the payments made for occupation and use.⁹¹ Also provided in the stipulation was an order that "[n]either party would interfere with the other party's services, programs, membership enrollments, visitors or individual members; and, should the building be sold or demolished, net proceeds would be distributed 70% to the plaintiff and 30% to the defendant."⁹²

After several members of the defendant's congregation submitted applications for membership with the plaintiff, plaintiff amended its bylaws to require all members to support the equal rights of women to worship.⁹³ Defendant then brought a motion to have the newly amended bylaws declared void, which the lower court granted because the amendment was barred by the parties' stipulation.⁹⁴ After an appeal by the plaintiff, the

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.* at 519-20, 664 N.Y.S.2d at 236.

⁹¹ *Id.* at 520, 664 N.Y.S.2d at 236.

⁹² *Id.*

⁹³ *Id.* at 520, 664 N.Y.S.2d at 236-37.

⁹⁴ *Id.* at 520, 664 N.Y.S.2d at 237 (citing *Park Slope Jewish Center v. Stern*, 128 Misc. 2d 909, 491 N.Y.S.2d 958 (Sup. Ct. Kings County 1985)).

Appellate Division reversed,⁹⁵ holding that “judicial resolution of the membership dispute would violate the Establishment Clause of the United States Constitution.”⁹⁶ The New York State Court of Appeals dismissed an appeal from that order based on non-finality.⁹⁷ After the matter was remitted back to the lower court, an order was issued “purporting to permit the defendant to take a credit against its use and occupancy payments for its members who had applied for membership with the plaintiff, but had been denied.”⁹⁸ The New York State Court of Appeals dismissed an appeal from that order due to the lack of finality as well.⁹⁹ “From the time of that supreme court order, the defendant had not tendered any payments to plaintiff for the use and occupancy of the premises.”¹⁰⁰

Subsequently, plaintiff commenced three actions for eviction against the defendant congregation in King’s County Civil Court, which were all dismissed.¹⁰¹ Defendant then commenced an action of its own seeking declaratory judgment of the rights and obligations of the parties under the stipulation.¹⁰² In January of 1991, the Supreme Court, Kings County, granted a motion by the plaintiff to have the case dismissed.¹⁰³ The Second Department affirmed the supreme court, holding that there was no cause of action to be resolved.¹⁰⁴

Plaintiff then commenced the present action “[s]eeking payment for seventy-two months’ use and occupancy and for ejection of

⁹⁵ *Id.*

⁹⁶ *Id.* (citing *Park Slope Jewish Center v. Stern*, 128 Misc. 2d 847, 513 N.Y.S.2d 767 (2d Dep’t 1987)).

⁹⁷ *Id.* (citing *Park Slope Jewish Center v. Stern*, 70 N.Y.2d 746, 514 N.E.2d 390, 519 N.Y.S.2d 1032 (1987)).

⁹⁸ *Id.*

⁹⁹ *Id.* (citing *Park Slope Jewish Center v. Stern*, 72 N.Y.2d 873, 528 N.E.2d 517, 532 N.Y.S.2d 365 (1988)).

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.* (citing *B’nai Jacob v. Park Slope Jewish Center*, 199 A.D.2d 296, 604 N.Y.S.2d 255 (2d Dep’t 1993)).

the defendant congregation from the premises.”¹⁰⁵ Both plaintiff and defendant moved for summary judgment and the supreme court denied both motions, basing its decision on the prior holding of the Appellate Division that the courts should not resolve this or other “religious” disputes.¹⁰⁶ The Appellate Division affirmed the Supreme Court and it held that a “judicial resolution would violate the Establishment Clause of the First Amendment of the United States Constitution.”¹⁰⁷ Plaintiff and defendant both appealed to the New York State Court of Appeals, and the court dismissed defendant’s claim because defendant “[w]as not a party aggrieved by the court’s order.”¹⁰⁸

The Court of Appeals began its analysis of the case at bar through the comparison and application of the doctrine used in *First Presbyterian Church v. United Presbyterian Church*.¹⁰⁹ In *First Presbyterian Church*, the Court of Appeals decided a dispute involving a local church in Schenectady, New York, and its denominational church faction.¹¹⁰ One of the main issues of that dispute involved the power over controlling the property of the local church.¹¹¹ The Court of Appeals acknowledged that the First Amendment of the United States Constitution prohibited the courts from entertaining such matters as those found to be at issue because a court ruling would “[s]imultaneously establish one religious belief as correct for the organization while interfering with the free exercise of the opposing faction’s belief.”¹¹² However, the Court of Appeals did hold that the courts were able to address this matter “[t]o the extent that the plaintiff sought to enjoin defendants from interfering with the plaintiff’s use of the property, because the courts could do so without having to decide

¹⁰⁵ *Id.* at 520-21, 664 N.Y.S.2d at 237.

¹⁰⁶ *Id.* at 521, 664 N.Y.S.2d at 237.

¹⁰⁷ *Id.* (citing *Park Slope Jewish Center v. Congregation B’nai Jacob*, 230 A.D.2d 779, 646 N.Y.S.2d 624 (2d Dep’t 1996)).

¹⁰⁸ *Id.* (citing *Park Slope Jewish Center v. Congregation B’nai Jacob*, 89 N.Y.2d 964, 678 N.E.2d 495, 655 N.Y.S.2d 883 (1997)).

¹⁰⁹ 62 N.Y.2d 110, 464 N.E.2d 454, 476 N.Y.S.2d 86 (1984).

¹¹⁰ *Id.* at 113, 464 N.E.2d at 456, 476 N.Y.S.2d at 88.

¹¹¹ *Id.*

¹¹² *Id.* at 116, 464 N.E.2d at 457-58, 476 N.Y.S.2d at 90.

which body had authority to control the property under church law.”¹¹³

In *Jones v. Wolf*,¹¹⁴ a “dispute over the ownership of church property following a schism in a local church affiliated with a hierarchical church organization led to court action.”¹¹⁵ A faction of church-goers voted to separate themselves from the Presbyterian Church of the United States.¹¹⁶ This faction then united themselves with another church denomination, and proceeded to retain possession and control of the local church property.¹¹⁷ A commission was appointed by the Presbytery of Augusta-Macon to investigate the dispute.¹¹⁸ This commission eventually determined that the minority that would not separate themselves from the Presbyterian Church of the United States was the “true congregation.”¹¹⁹ The members of this minority then brought suit in state court,¹²⁰ seeking “[d]eclaratory and injunctive orders establishing their right to exclusive possession and use of the local church property.”¹²¹ The case was eventually heard on appeal by the Supreme Court of the United States, which ultimately held that “[a] State court is entitled to adopt a ‘neutral principles of law’ analysis as a means of resolving church property disputes.”¹²² It is this “neutral principles of law” analysis which was used to determine *First Presbyterian Church*,¹²³ as well as the case at bar.¹²⁴

Under the “neutral principles of law” analysis, the focus of the court is not only on “[t]he language of instruments such as deeds,

¹¹³ *Park Slope Jewish Center*, 90 N.Y.2d at 521, 664 N.Y.S.2d at 237 (citing *First Presbyt. Church*, 62 N.Y.2d 110, 118, 464 N.E.2d 454, 458, 476 N.Y.S.2d 86, 90).

¹¹⁴ 443 U.S. 595 (1979).

¹¹⁵ *Id.* at 595.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ 62 N.Y.2d 110, 464 N.E.2d 454, 476 N.Y.S.2d 86 (1984).

¹²⁴ 90 N.Y.2d 517, 664 N.Y.S.2d 236 (1997).

but also on such factors as ‘the terms of the local church charter, the State statutes governing the holding of church property, and the provisions in the constitution of the general church concerning the ownership and control of church property.’¹²⁵ It is, however, very important that courts take “special care to scrutinize the documents in purely secular terms and not to rely on religious precepts in determining whether they indicate that the parties have intended [a particular result].”¹²⁶

Here, the Court of Appeals held that it could resolve the dispute through the application of these “neutral principles of law” because “[n]o doctrinal issue will be passed upon, no implementation of a religious duty is contemplated, and no interference with religious authority will result.”¹²⁷ It is the stipulation in which the parties entered into in 1984 which the Court of Appeals used to “provide the framework for the resolution of this dispute.”¹²⁸ The stipulation involved was used as a means of settling the argument between the feuding congregations which began as a religious disagreement, but was eventually settled through the use of secular terms.¹²⁹ These secular terms not only provided for ownership of the premises, the part of the temple that each congregation was allowed to use, the payments for such use, and the percentage distribution that each congregation was entitled to should the premises be sold or destroyed, but the stipulation also did not limit the plaintiff’s right to determine the necessary criteria for membership.¹³⁰ The enforcement of this criteria of membership provision “did not

¹²⁵ *Id.* at 521-22, 664 N.Y.S.2d at 238.

¹²⁶ *Id.* at 522, 664 N.Y.S.2d at 238 (citing *First Presbyterian*, 62 N.Y.2d at 122, 464 N.E.2d at 461, 476 N.Y.S.2d at 93).

¹²⁷ *Id.* (quoting *Avitzur v. Avitzur*, 58 N.Y.2d 108, 115, 446 N.E.2d 136, 139, 459 N.Y.S.2d 572, 575 (1983)). In *Avitzur*, the New York Court of Appeals held that “secular terms of the married parties’ binding prenuptial agreement to arbitrate any post marital religious obligations before a specified rabbinical tribunal, which were entered into as part of a religious ceremony, were enforceable” and the matter could be judicially resolved through the application of “neutral principles of law.” *Id.*

¹²⁸ *Park Slope Jewish Center*, 90 N.Y.2d at 522, 664 N.Y.S.2d at 238.

¹²⁹ *Id.*

¹³⁰ *Id.*

require a state court to determine whether a particular criterion is in violation of religious law.”¹³¹ Rather, the court had the ability to determine “[t]he amount of membership credits against the use and occupancy payments based upon the number of defendant’s members who have been admitted to membership in the plaintiff’s congregation under the application of the membership criteria.”¹³² The Court of Appeals had also determined that plaintiff’s claim for the ejectment of the defendant from the premises could also be based upon the application of “neutral principles of law” as well.¹³³

In *Park Slope Jewish Center*, the Court of Appeals recognized the implication of the Establishment and Free Exercise Clauses of the First Amendment to the United States Constitution when dealing with church property dispute cases, but the Court of Appeals also recognized “[t]hat courts are free to decide such disputes if they can do so without resolving underlying controversies over religious doctrine.”¹³⁴ Due to this recognition, the Court of Appeals both adopted and applied the “neutral principles of law” approach, which had been developed by the Supreme Court of the United States for use in such disputes involving church property.¹³⁵

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Park Slope Jewish Center*, 90 N.Y.2d at 521, 664 N.Y.S.2d at 237.

¹³⁵ *Id.* at 521, 664 N.Y.S.2d at 237-38 (citing *First Presbyt. Church v. United Presbyt. Church*, 62 N.Y.2d at 119-20, 464 N.E.2d at 459, 476 N.Y.S.2d at 91). See also *Jones v. Wolf*, 443 U.S. 595 (1979).