

STATE OF MICHIGAN
COURT OF APPEALS

PROPHETIC WORD MINISTRIES, INC.,
Petitioner-Appellee,

UNPUBLISHED
April 17, 2014

v

CITY OF SAUGATUCK,

No. 313706
Michigan Tax Tribunal
LC No. 00-433250

Respondent-Appellant.

Before: OWENS, P.J., and MURRAY and RIORDAN, JJ.

PER CURIAM.

Respondent, city of Saugatuck, appeals as of right a judgment entered by the Michigan Tax Tribunal, which found that real property owned by petitioner, Prophetic Word Ministries, Inc.'s (PWM), qualified for the parsonage exemption pursuant to MCL 211.7s, and thus was exempt from ad valorem taxation. We affirm.

PWM, a nonprofit, national and international ministry, purchased a residential property in Saugatuck, Michigan on June 8, 2011, from San Marino Holdings, LLC on land contract, and has made monthly land contract payments to San Marino since. The subject property is a 3,835 square foot, two-story dwelling with a walkout basement, and is situated on the Kalamazoo River. PWM sought a property tax exemption from the city, pursuant to MCL 211.7s, claiming that the residence was being used as a tax-exempt parsonage. The city denied the exemption, which was affirmed by the city's board of review. PWM then appeal to the tribunal, which reversed the denial, concluding that the residence was a parsonage, and as such, qualified for the parsonage tax exemption pursuant to MCL 211.7s. The city appealed as of right to this Court, arguing that the tribunal erred by concluding that the subject property was occupied as a parsonage pursuant to MCL 211.7s.

“Absent fraud, this Court’s review of a Tax Tribunal decision is limited to determining whether the tribunal made an error of law or adopted a wrong legal principle.” *Meijer, Inc v Midland*, 240 Mich App 1, 5; 610 NW2d 242 (2000). The tribunal’s findings of fact are conclusive if they are supported by “competent, material, and substantial evidence on the whole record.” *Wexford Med Group v Cadillac*, 474 Mich 192, 201; 713 NW2d 734 (2006) (quotation marks and citation omitted). “Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence.” *Meijer, Inc*, 240

Mich App at 5. Additionally, “when statutory interpretation is involved, this Court reviews the tribunal’s decision de novo.” *Wexford Med Group*, 474 Mich at 201.

A petitioner must prove it is entitled to an existing tax exemption by a preponderance of the evidence. *ProMed Healthcare v Kalamazoo*, 249 Mich App 490, 495; 644 NW2d 47 (2002). Statutes that exempt taxation are narrowly construed in favor of the taxing authority. *Moshier v Whitewater Twp*, 277 Mich App 403, 409; 745 NW2d 523 (2007).

MCL 211.7s provides:

Houses of public worship, with the land on which they stand, the furniture therein and all rights in the pews, and *any parsonage owned by a religious society of this state and occupied as a parsonage are exempt from taxation under this act.* Houses of public worship includes buildings or other facilities owned by a religious society and used predominantly for religious services or for teaching the religious truths and beliefs of the society. [Emphasis added.]

The plain language of the statute clearly indicates that to qualify for the parsonage exemption, a petitioner must prove that the subject property is (1) a parsonage, (2) owned by a religious society, and (3) occupied as a parsonage by that religious society. See *Rose Hill Center, Inc v Holly Twp*, 277 Mich App 403, 32; 568 NW2d 332 (1997) (citation omitted) (“If the statutory language is clear and unambiguous, judicial construction is neither required nor permitted, and courts must apply the statute as written.”).

The city first argues that the tribunal erred by concluding that the enforceability of the land contract between PWM and San Marino was not at issue.¹ The city asserts that this was the only document evidencing PWM’s ownership of the subject property, and by failing to address its enforceability, the tribunal ignored PWM’s burden to prove ownership, as required by the plain language of MCL 211.7s. We disagree. The city takes the tribunal’s statement out of context. The tribunal recognized that it was PWM’s burden to prove that it owned the subject property, and as such, it correctly applied the law. In its decision, the tribunal noted that the city argued that PWM did not own the property because an individual who had the authority to bind the seller, San Marino, did not sign the land contract. Accordingly, the tribunal stated that “the enforceability of the land contract is not at issue in this case,” because it found that San Marino had ratified the contract by accepting payments from PWM, and San Marino was not disputing ownership. Thus, contrary to the city’s assertion, the tribunal’s decision actually did address the

¹ Contrary to PWM’s argument, the tribunal had jurisdiction to determine the validity of the contract because it was relevant to the ownership requirement pursuant to MCL 211.7s, and the tribunal has original jurisdiction over tax proceedings. *Mich Props, LLC v Meridian Twp*, 491 Mich 518, 541; 817 NW2d 548 (2012). Additionally, we decline to address PWM’s appellate arguments that the city lacked standing to challenge the validity of the land contract and that San Marino should have been added as a party to the tribunal action, because they were not properly raised in a cross-appeal. MCR 7.207; *In re Complaint of McLeodUSA Telecom Servs, Inc*, 277 Mich App 602, 621 n 8; 751 NW2d 508 (2008).

enforceability of the land contract when it concluded that San Marino had ratified the contract, and found this to be sufficient evidence that PWM owned the subject property.

The city also argues that the tribunal erred by refusing to admit evidence that the land contract was void because it was signed by an individual who did not have the authority to sign on behalf of San Marino. Specifically, the city challenges the tribunal's exclusion of a letter and a circuit court pleading, and its decision to prohibit the city from cross-examining a witness. The tribunal has wide latitude in the admission of evidence. *Georgetown Place Coop v Taylor*, 226 Mich App 33, 52-53; 572 NW2d 232 (1997). Under MCL 205.746(1), "[t]he tribunal may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded."

With regard to the tribunal's exclusion of the letter, this argument has no merit. Although not admitted as the city's exhibit, the letter was admitted as part of PWM's exhibit 20, and thus, it was part of the record.

With regard to the tribunal's exclusion of the circuit court pleading, it appears that the tribunal excluded the pleading on relevance grounds, and we find no error in this ruling. The tribunal correctly determined that it did not matter whether an individual lacking authority signed the contract, because there was sufficient evidence to show that San Marino ratified the contract when it accepted payments from PWM. See *Forge v Smith*, 458 Mich 198, 208-209; 580 NW2d 876 (1998) ("Contracts conveying an interest in land made by an agent having no written authority are invalid under the statute of frauds unless ratified by the principal."). See also *Echelon Homes, LLC v Carter Lumber Co*, 261 Mich App 424, 431; 683 NW2d 171 (2004), rev'd in part on other grounds 472 Mich. 192 (2005) (stating that a principal can ratify an agreement if the principal treats the actions of his agent as being authorized or behaving in a manner that can be justified only if the principal considers the acts as being authorized).

Finally, we find that the tribunal should have allowed the city to cross-examine John Breen, the witness called by PWM to testify about the sale of the house and its value. By failing to allow any cross-examination on the unobjected to portion of Breen's testimony, the tribunal foreclosed a relevant avenue of information regarding the authority of Breen to sell the house and infringed on respondent's right of cross-examination. See, e.g., *Garrelts v Garrelts*, 101 Mich App 71, 76; 300 NW2d 454 (1980). Remarkably, at a subsequent hearing, the tribunal mentioned that it *needed evidence* on that *exact* issue. Utilizing the required deferential standard of review, however, we must affirm the tribunal's ruling because the relevant factual findings made by the tribunal were supported by competent, material, and substantial evidence. *Wexford Med Group*, 474 Mich at 201.

The city next argues that the tribunal erred by allowing PWM to admit hearsay evidence in the form of an affidavit of an individual who did not testify. We disagree. The affidavit was relevant because it supported Reverend Allan Tackett's assertion that he had seen a document at the closing on the land contract and believed that John Breen, the individual representing San Marino, had authority to sign the land contract as an agent for San Marino. See MRE 402. The document was offered to prove Breen's state of mind, not to prove the truth of the matter asserted, that Breen in fact had authority as an agent to sign the land contract, and as such did not

constitute inadmissible hearsay under MRE 801(c). Moreover, the tribunal stated that it would only give the affidavit the weight and credibility it deserved, impliedly not admitting it to prove Breen in fact had authority. Even if its admission was erroneous, reversal would not be warranted because the tribunal did not rely on the affidavit in its decision and the city cannot demonstrate any prejudice from its admission. See MRE 103.

The city also justifiably challenges PWM's corporate paperwork, the timing of certain corporate actions, and whether Kenneth Clinton had any authority to sign some of the corporate documents that are critical to this case. Despite these legitimate challenges, as stated earlier, there was still testimony in the record (as well as some later acquired and admitted documents from San Marino) that supported the tribunal's findings that PWM owned the subject property. And, because all those facts were in existence at the time of the relevant tax date, we are compelled to affirm, despite any proclivity to rule otherwise were this case subject to de novo review.

Finally, the city argues that even if the land contract was enforceable, the tribunal erred by determining that the subject property was occupied as a parsonage. We disagree. Ownership is proved when the religious society has possession, control, and dominion over the parsonage. See *Twitchel v MIC Gen Ins Corp*, 469 Mich 524, 534-535; 676 NW2d 616 (2004) (reviewing dictionary definitions for "owned" and noting that possession, control, and dominion are the primary features of ownership). An organization qualifies as a religious society under MCL 211.7s "if its predominant purpose and practice include teaching religious truths and beliefs." *Institute in Basic Life Principles, Inc v Watersmeet Twp*, 217 Mich App 7, 14; 551 NW2d 199 (1996). In *St Matthew Lutheran Church v Dehli Twp*, 76 Mich App 597, 599; 257 NW2d 183 (1977), this Court concluded that the parsonage exemption applies to any church-owned house occupied by a minister ordained in that church. See also *St John's Evangelical Lutheran Church v Bay City*, 114 Mich App 616, 623; 319 NW2d 378 (1982). The ordained parson must be responsible for the religious needs of the congregation in which he is ordained to qualify for the parsonage exemption. *Id.* at 624.

The record establishes that PWM was a religious society that owned the subject property by land contract, under which it made payments to San Marino. PWM submitted ample documentation that it is a religious society, including that it is registered as a nonprofit corporation. Additionally, PWM's bylaws indicate that its mission includes establishing churches and ministries to win over those lost to Jesus Christ, to train and ordain all aspects of ministries, to have ministry schools, and to help underprivileged people.

The record also establishes that Tackett was an ordained minister who resided at the property. PWM submitted evidence of ordinations from the Church of God, as well as a September 18, 2011 certificate from PWM International. A memorandum of PWM's board of directors authorizing the pastoral contract between Tackett and PWM, the signed pastoral contract, and testimony that Tackett was authorized to ordain himself, along with the board's approval, were submitted. PWM also submitted Tackett's voter registration card and bills addressed to the subject property's address in the names of PWM and Tackett.

The record further establishes that Tackett is a parson who presides over a congregation. Tackett testified that church services are held each week at PWM's church, Waves of Glory

Church, where 15 to 60 people regularly attended the services. He also testified that he is the senior pastor responsible for the needs of those attending the church, as well as the other leaders in the ministry and leads, organizes, and directs the services. Accordingly, we find that there was substantial, competent, and material evidence that a parsonage occupied the subject property.

Affirmed. Petitioner, being the prevailing party, may tax costs pursuant to MCR 7.219.

/s/ Donald S. Owens

/s/ Christopher M. Murray

/s/ Michael J. Riordan