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278 N.W.2d 675

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Court of Appeals of Michigan.
ASHER STUDENT FOUNDATION, Plaintiff-
 Appellant,
 v.
CITY OF EAST LANSING, INGHAM COUNTY,
 Defendant-Appellee.
 Docket No. 77-3469.

Feb. 20, 1979.

Released for Publication May 29, 1979.

Leave to Appeal Denied July 16, 1979.

The Michigan Tax Tribunal held that property was not exempt from ad valorem real property taxes, and taxpayer appealed. The Court of Appeals, Gillis, J., held that taxpayer's purpose to provide living quarters for certain Christian Science university students was not sufficiently beneficial to the general public to entitle taxpayer to ad valorem real property tax exemption.

Affirmed.

West Headnotes

[1] Taxation 371 ⇐ 2300

371 Taxation

371III Property Taxes

371III(F) Exemptions

371III(F)1 In General

371k2298 Construction and Operation of Exemptions in General

371k2300 k. General Rules of Construction. Most Cited Cases

(Formerly 371k204(2))

Because exemption is the antithesis of tax equality, exemption statutes are to be strictly construed in favor of the taxing unit.

[2] Taxation 371 ⇐ 2355

371 Taxation

371III Property Taxes

371III(F) Exemptions

371III(F)1 In General

371k2355 k. Religious Societies and Institutions, and Property Used for Religious Purposes. Most Cited Cases

(Formerly 371k244)

Merely because an organization is religiously oriented does not, alone, make it "charitable" so as to be entitled to exemption from real property taxes; to qualify, organization must confer benefit upon society in general. M.C.L.A. § 211.7, subd. 4, Pub.Acts 1966, No. 320.

[3] Taxation 371 ⇐ 2355

371 Taxation

371III Property Taxes

371III(F) Exemptions

371III(F)1 In General

371k2355 k. Religious Societies and Institutions, and Property Used for Religious Purposes. Most Cited Cases

(Formerly 371k244)

Claimed purpose of building, which housed approximately 90 university students of the Christian Science faith, to promote cause of Christian Science by providing supportive living environment for university students of that faith benefited only few select members of particular sect and thus did not constitute sufficiently widespread benefit to society to characterize house as charitable institution entitled to exemption from ad valorem real property taxes. M.C.L.A.Const.1963, art. 9, § 4; M.C.L.A. §§ 211.7, 211.7, subd. 4, Pub.Acts 1966, No. 320,

[4] Statutes 361 ⇐ 207

361 Statutes

361VI Construction and Operation

361VI(A) General Rules of Construction

361k204 Statute as a Whole, and Intrinsic Aids to Construction

361k207 k. Conflicting Provisions,

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Most Cited Cases

It is duty of court as far as practicable to reconcile different provisions of statute so as to make them consistent and harmonious, and to give sensible and intelligent effect to each.

[5] Taxation 371 ⇌ 2355

371 Taxation

371III Property Taxes

371III(F) Exemptions

371III(F)I In General

371k2355 k. Religious Societies and Institutions, and Property Used for Religious Purposes. Most Cited Cases

(Formerly 371k244)

Advancement of particular religion is not sufficient to bring organization within definition of charitable institution entitled to exemption from real property taxation. M.C.L.A. § 211.7, subds. 4, 5, Pub.Acts 1966, No. 320.

****675 *569** Dykema, Gossett, Specner, Goodnow & Trigg by Jack C. Radcliffe, Jr., Jackson, for plaintiff-appellant.

***570** Dennis E. McGinty, Thomas M. Hitch, East Lansing, for defendant-appellee.

****676** Before KELLY, P. J., and GILLIS and CAVANAGH, JJ.

GILLIS, Judge.

Plaintiff appeals from a decision of the Michigan Tax Tribunal entered on August 26, 1977, which held that plaintiff's property was not exempt from ad valorem real property taxes assessed for the years 1974 through 1977.

Asher Student Foundation is a Michigan nonprofit corporation. It owns Asher House, a building located in the City of East Lansing which houses approximately 90 Michigan State University students of the Christian Science faith. The building contains living quarters for men and women, dining, kitchen and laundry facilities, lounges, administrative offices, libraries containing literature pertaining

to the Christian Science religion, and two rooms set aside for the study of Christian Science and prayerful meditation. Residents are charged fees comparable to those charged by the university for dormitory rooms. These fees are the primary source of plaintiff's funding.

Article 9, s 4 of the 1963 Michigan Constitution provides that:

"Property owned and occupied by non-profit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes."

It has been held that this section is not self-executing. Rather, it is up to the Legislature to define what these particular institutions are. American Youth Foundation v. Benona T(w)p., 8 Mich.App. 521, 154 N.W.2d 554 (1967).

***571** Pursuant to its authority to grant exemptions, the Legislature has enacted M.C.L. s 211.7; M.S.A. s 7.7 which provides, in pertinent part, as follows:

"The following property shall be exempt from taxation:

"Fourth, Such real estate or personal property as shall be owned and occupied by nonprofit theater, library, benevolent, charitable, educational, or scientific institutions and memorial homes of world war veterans incorporated under the laws of this state with the buildings and other property thereon while occupied by them solely for the purposes for which they were incorporated.

"Fifth, All houses of public worship, with the land on which they stand, the furniture therein and all rights in the pews, and also any parsonage owned by any religious society of this state and occupied as such."[FN1]

FN1. Current version at 1978 West's Michigan Legislative Service, 126.

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Plaintiff concedes that Asher House is not a house of public worship or a parsonage. Instead, it is claimed that the purpose of Asher House is to promote the cause of Christian Science by providing a supportive living environment for certain Michigan State University students of that faith. Plaintiff argues that the advancement of religion is a charitable purpose and that Asher Student Foundation, therefore, is a charitable institution under s 7, paragraph 4, *Supra*.

[1] Because exemption is the antithesis of tax equality, exemption statutes are to be strictly construed in favor of the taxing unit. *Michigan Baptist Homes & Development Co. v. Ann Arbor*, 396 Mich. 660, 242 N.W.2d 749 (1976).

Relief of the poor is not the sole charitable *572 objective. Traditionally, the advancement of religion has also been considered "charity".

"Probably the most comprehensive and carefully drawn definition of a charity that has ever been formulated is that it is a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their hearts under the influence of education or religion, by relieving their bodies from disease, suffering, or constraint, by assisting them to establish **677 themselves for life, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government." *The Salvation Army v. Hoehn*, 354 Mo. 107, 114, 188 S.W.2d 826, 830 (1945). (Citations omitted.) (Emphasis supplied.) See also *The Presbyterian Homes of the Synod of New Jersey v. Division of Tax Appeals*, 55 N.J. 275, 261 A.2d 143, 37 A.L.R.3d 1181 (1970).

Michigan has recognized that the advancement of religion may come within the definition of "charity". In *Gull Lake Bible Conference Ass'n v. Ross T(w)p.*, 351 Mich. 269, 88 N.W.2d 264 (1958), the Supreme Court held that a nonprofit corporation which was organized to promote and conduct gatherings for the study of the Bible and for inspirational and evangelical addresses was a charitable cor-

poration. The Court held that the property in question was exempt under the fourth paragraph of M.C.L. s 211.7. *Gull Lake Bible Conference Ass'n v. Ross T(w)p.*, *supra*, at 273, 88 N.W.2d 264,

In *American Concrete Institute v. State Tax Comm.*, 12 Mich.App. 595, 610, 163 N.W.2d 508, 516 (1968), *Lv. den.*, 381 Mich. 782 (1968), then Judge Levin, in a concurring opinion, referred to three traditional charitable objectives, "providing relief to persons unable to care for themselves, education and religion".

While we agree with plaintiff that the advancement*573 of religion is a traditional charitable objective, we note Michigan has placed further limits on what constitutes a charitable institution for purposes of property tax exemptions. In *Michigan Baptist Homes*, *supra*, 396 Mich. at 671, 242 N.W.2d at 753, the Court stated: "Basically, it may be said that charity or benevolence benefit the general public without restriction." In *Auditor General v. R. B. Smith Memorial Hospital Ass'n*, 293 Mich. 36, 38, 291 N.W. 213 (1940), the Court indicated that nondiscrimination as to race, color or creed in the conferral of benefits was necessary for an organization to be considered "charitable" within the meaning of the tax-exemption statutes. Quoting from 34 A.L.R. 635 the Court stated the following:

"In general, it may be said that any body not organized for profit, which has for its purpose the promotion of the general welfare of the public, extending its benefits without discrimination as to race, color, or creed, is a charitable or benevolent organization within the meaning of the tax exemption statutes." 293 Mich. at 38-39, 291 N.W. at 214.

The above case concerned the status of a hospital, not a religious organization. However, it appears that even where the advancement of religion is concerned, to be considered "charitable" the benefits should be offered to persons irrespective of race, color or creed. Thus, in determining whether a Bible camp was a charitable institution, the Court

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in *Gull Lake Bible Conference Ass'n v. Ross T(w)p.*, supra, specifically noted that no such discrimination was practiced:

“ The plaintiff corporation was organized as a non-profit corporation. The proof show conclusively that it is not operated for profit. It has no stockholders. Aside from modest salaries paid to necessary employees, no *574 individual receives any pecuniary benefit from its operation. It practices no discrimination as to race, creed or color. Having in mind the purpose for which it was formed as set forth in Article 2 of its Articles of Association, the conclusion is inescapable that it is a charitable organization and such is the decision of this Court.” 351 Mich. at 274, 88 N.W.2d at 266. (Emphasis supplied.)

[2][3] We conclude that merely because an organization is religiously oriented does not, by that fact alone, mean it is “charitable” within the meaning of s 7, paragraph 4. To qualify under that provision the organization must confer a benefit upon society in general. Where, as in the instant case, the purpose of the organization is to benefit only a few select members of a particular sect there is not a sufficiently widespread benefit to society to characterize this as a charitable institution under s 7, P 4. While such an objective may be sufficient**678 for purpose of income tax exemptions, the taxable status of plaintiff's property is determined by the much more strict provisions of the Michigan general property tax law. *American Concrete Institute*, supra, at 606, 163 N.W.2d 508.

[4] Furthermore, it is the duty of the Court, as far as practicable, to reconcile the different provisions of a statute so as to make them consistent and harmonious, and to give a sensible and intelligent effect to each. *Rohde v. Wayne Circuit Judge*, 168 Mich. 683, 131 N.W. 523 (1912), *King v. Director of the Midland County Dep't of Social Services*, 73 Mich.App. 253, 251 N.W.2d 270 (1977).

[5] If we were to hold that any religious purpose constitutes a charitable objective under s 7, P 4,

then s 7, P 5 would be rendered superfluous, for it can certainly be said that the primary purpose of houses of public worship is to advance the cause of religion. Therefore, had the Legislature intended *575 to include any organization whose purpose was the advancement of a particular religion within the definition of “charitable institution”, there would have been no need to add P 5 to s 7. The fact that the Legislature did so evidences an intent contrary to plaintiff's position.

In light of our discussion we conclude that Asher Student Foundation is not a charitable institution within the meaning of M.C.L. s 211.7, P 4. Plaintiff's purpose is to provide living quarters for certain Christian Science students. This is not sufficiently beneficial to the general public. See also, *St. Mathew Lutheran Church v. Delhi Twp.*, 76 Mich.App. 597, 257 N.W.2d 183 (1977), where this Court held that s 7, P 4, has no application to property owned by a church and occupied by church employees.

Our review of the decision of the tax tribunal indicates it contains no material error of law and is supported by competent, material and substantial evidence.

Affirmed. No costs, a public question being involved.

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