

COURT OF COMMON PLEAS OF PHILADELPHIA
ORPHANS' COURT DIVISION

In Re: Wat Phreasbuddhapratheanphor, Inc.,
A Nonprofit Corporation
O.C. No. 462 NP of 2011
Control No. 115114

OPINION

The question presented is an unusual one, whether a Buddhist Temple can lawfully evict its former Chief Monk from the Temple where he resides.

This action was commenced in the Civil Division by Plaintiff Wat Phreasbuddhapratheanphor, Inc. against its former Chief Monk, Somsak Suwannarat, the Defendant. This litigation, an action in ejectment, was filed in the Civil Division and subsequently transferred to the Orphans' Court Division.

On or about March 25, 2002, Defendant either founded himself or with others co-founded a Buddhist Temple known as Wat Phreasbuddhapratheanphor, Inc. (the "Temple") and purchased a residence located at 1532 South Carlisle Street to serve the needs of the Temple and its congregation. Subsequently, on January 15, 2004, the Temple moved to 1732 Mifflin Street in Philadelphia.

A preliminary question is whether Defendant has an equitable interest in the Temple property and thus has a right to remain in physical possession irrespective of whether such a right is conferred under the Temple's By-Laws. The Carlisle Street property was purchased in Defendant's name alone. The Mifflin Street property was purchased in the Temple's name alone. The proceeds to purchase these properties represented donations and loans from Defendant and others. The testimony on the source of the purchase monies was confusing, incomplete and fell far short of conferring any equitable interest in Defendant especially considering By-laws 5.4 and 5.5 which expressly waive any claim for money or property given to the Temple. Thus, Defendant's monetary contributions do not confer upon him any right to reside in the Temple and he has no independent ownership interest in the premises.

The Temple seeks to eject and evict Defendant from the Temple property where he has continuously resided since the property was purchased. The Temple cites various sections of the

By-Laws to support its claim. Defendant, while conceding that he voluntarily resigned his position as Chief Monk in a disrobing ceremony held on December 9, 2007, vigorously argues that he never resigned his other positions in the Temple, i.e., Abbot of the Temple and Chairperson of the Board of Directors, and thus is entitled to remain in the Temple by virtue of these positions.

Discussion

By-law 15.8 confers absolute authority upon the Board of Directors to make all "... policies and plans for managing the temple's affairs.". By letter dated July 28, 2009 (Exhibit P-3), the Board of Directors gave notice of its vote to evict Defendant and this lawful decision overrides any and all claims to residency by Defendant.

The testimony is both unclear and incomplete on the question of why Defendant resigned as Chief Monk. When asked this question and others, he was evasive and on at least two (2) occasions refused to answer. He did admit that he announced his intent to resign two (2) years before doing so and he admitted involvement in operating a restaurant business, although he would not disclose its location. He maintains that he continued to serve as Abbot and as Chairperson of the Board, but could point to only one act, scheduling a festival, which might evidence his continuing authority in these positions. He claimed to have others serving with him on the Board, but refused to identify them and called no witnesses to confirm his testimony.

The Temple through its witnesses established by clear and convincing testimony that, following the disrobing ceremony, a Board Meeting was held and Sarim Sot was appointed Abbot and Chair person (Exhibits P-4, P-5). Again by credible testimony, the Temple proved that a Board meeting was held on July 12, 2009 at which time, by majority vote, Defendant's right to remain a resident was terminated. While this meeting was held on the second Sunday of the month, we find the reasons for doing so reasonable and no basis to vitiate the vote especially since all Board Members had notice and appeared.

Finally, the By-laws, written by Defendant, clearly defeat his claims to remain in office. Under By-law 10.1, the Chairperson must be a monk. Under By-law 9.5, the Abbot is the Chairperson of the Board. When Defendant resigned as a monk, he effectively resigned as Abbot and as Chairperson.

For all the reasons stated, we find that Defendant has been properly directed to vacate the Temple's premises and by Order contemporaneously issued, require that he do so.

Dated: June 2, 2011

BY THE COURT:

John W. Herron, J.