



11 December 2013

PRESS SUMMARY

R (on the application of Hodkin and another) v Registrar General of Births, Deaths and Marriages

[2013] UKSC 77

ON APPEAL FROM: The High Court, [2012] EWHC 3635

JUSTICES: Lord Neuberger (President), Lord Clarke, Lord Wilson, Lord Reed, Lord Toulson

BACKGROUND TO THE APPEAL

This appeal concerns the question whether a church of the Church of Scientology is recordable as a “place of meeting for religious worship”, with the effect that a valid ceremony of marriage can be performed there.

The first Appellant, Ms Hodkin, is engaged to be married to a Mr Calcioli. They are members of the Church of Scientology and seek to be married in its premises on Queen Victoria Street, London. The second Appellant is the proprietor of that church.

On 31 May 2011 a trustee of that church applied on behalf of the congregation to record the church under section 2 of the Places of Worship Registration Act 1855 (“PWRA”). This statute provides that every “place of meeting for religious worship” may be certified to the Registrar General, who will cause that place of meeting to be recorded as such a place. Recording under PWRA then entitles the building to be registered for the solemnisation of marriages under the Marriage Act 1949, which in turn enables the building to be used for marriage according to the “form and ceremony” chosen by the marrying couple.

The Registrar General of Births, Deaths and Marriages stated that she was bound by the Court of Appeal’s 1970 judgment in *R v Registrar General, ex parte Segerdal* [1970] 2 QB 697 (“*Segerdal*”) to reject the Appellants’ application. In that case, which involved an earlier attempt by the Church of Scientology to record a chapel under PWRA, the Court of Appeal had held that Scientology did not involve “religious worship” since it did not involve “reverence or veneration of God or of a Supreme Being”, but rather instruction in a philosophy.

The Appellants judicially reviewed the Registrar-General’s decision. In the High Court,

Ouseley J held that he was bound by *Segerdal* to dismiss the Appellants' judicial review claim. He concluded on the evidence that Scientology was a religion, but that the *Segerdal* definition of "religious worship" remained unfulfilled, since there had been no essential change in the nature and practices of Scientology since 1970. Since *Segerdal* would be binding at Court of Appeal level also, Ouseley J certified a point of law of general public importance for a "leapfrog" appeal directly to the Supreme Court. The Appellants appealed.

JUDGMENT

The Supreme Court unanimously allows the appeal. The leading judgment is given by Lord Toulson. Lord Wilson adds a concurring judgment on the issue of whether the Registrar General's function in recording premises as "places of meeting for religious worship" is decisional or purely administrative.

REASONS FOR THE JUDGMENT

- The Registrar General has a decision-making function in recording premises as "places of meeting for religious worship" [26, 66f]. Historically, such recording had originally been instituted to enable some non-conformist churches to avoid criminal penalties directed at non-Church of England worship [70]. As a result, recording under those statutes was simply an administrative matter [71]. However, the PWRA had significantly changed the language and purpose of the requirement [75]. Properly construed, s. 2 PWRA gives the Registrar General a discretion to record, essentially for three reasons. Firstly, this is the natural meaning of the language used [76]. Secondly, this is consistent with the Registrar General's other functions under PWRA, which give her decision-making functions in relation to the renewal or cessation of use of recorded premises [77-79]. Thirdly, by the time that PWRA was enacted, the purpose of recording had altered: certification no longer only gave protection from criminal liability but also gave access to a number of privileges [79-82].
- In considering whether the Appellants' church qualifies for such recording, the first substantive question is whether Scientology is properly to be regarded as a religion. The interpretation of "religious worship" in *Segerdal* carried within it an implicit theistic definition of religion: what the Court of Appeal required was reverence for God [31]. There has never been a universal legal definition of religion in English law, given the variety of world religions, changes in society, and the different legal contexts in which the issues arise. It is necessary for PWRA to be interpreted in accordance with contemporary understanding of religion [32-34]. Two judgments from other common law countries, one from the US Court of Appeals and one from the High Court of Australia, shed useful light on the issue [35-49].
- The High Court correctly decided that Scientology was a religion [50]. Religion should not be confined to faiths involving a supreme deity, since to do so would exclude Buddhism, Jainism, and others [51]. Moreover, it would involve the court in difficult theological territory: Scientologists do believe in a supreme deity, but one of abstract and impersonal nature [52]. It is not appropriate for the Registrar General or the courts to determine questions such as whether this belief constitutes

a religion [53]. In a different context, the Charities Act 2006 states that “religion” includes religions not involving belief in a god [54-55].

- Religion could summarily be described as a belief system going beyond sensory perception or scientific data, held by a group of adherents, which claims to explain mankind’s place in the universe and relationship with the infinite, and to teach its adherents how they are to live their lives in conformity with the spiritual understanding associated with the belief system [57]. On this approach to religion, Scientology was clearly a religion [60]. The question that followed was whether the Appellants’ church was a “place of meeting for religious worship”.
- “Religious worship” includes “religious services” as well as the *Segerdal* concept of veneration or adoration of a deity [61-62]. This accords with the purpose of the statute: the authorisation to marry in conformity with one’s faith should not depend on fine theological or liturgical niceties as to how believers see and express their relationship with the infinite [63]. Since marriages on non-registered premises could not involve any form of “religious service”, if Scientologists were unable to marry in their church they could not have a legal marriage in accordance with their faith [64]. Since the Church of Scientology held religious services, it follows that its church is a “place of meeting for religious worship”, and the Registrar General is ordered to record it as such [65].

References in square brackets are to paragraphs in the judgment

NOTE

This summary is provided to assist in understanding the Court’s decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at:

<https://www.supremecourt.uk/decided-cases/index.html>