

Right to vote in club election is qualified

Privilege denied to holder of gift membership certificate in Pennsylvania court ruling.

BY WILLIAM JABINE

A Pennsylvania country club, which paid off a debt for some paving work with a "proprietary membership" in the club, found itself the defendant in a lawsuit when it denied the new member the right to vote in a club election. The resulting litigation was carried to the Supreme Court of Pennsylvania.

The plaintiff brought an action in equity seeking: to enjoin the defendant club from refusing him the right to vote in club elections; the voiding of an election in which he was denied the right to vote; the vacation of the positions of club officers and directors chosen at the disputed election; and the calling of a special election at which he would be permitted to vote.

The Chancellor who heard the case entered a decree in favor of the plaintiff enjoining the Club "from prohibiting, hindering and in any way preventing plaintiff from casting his ballot at any election by proprietary members of Melrose Country Club as such, so long as he retains ownership of a certificate of proprietary membership and pays dues scheduled in accordance with the privilege of the club which he exercises and enjoys."

The Court of Common Pleas, sitting en banc, disagreed with the Chancellor and entered a decree dismissing the complaint. The appeal to the Supreme Court followed.

The Supreme Court's opinion states the situation as follows: "The issue which is dispositive of this case is whether appellant, at the time of the disputed election, was a proprietary member of the club, entitled to vote at club elections. The facts upon which resolution

of this issue depends are not in dispute and may fairly be summarized as follows: The club's by-laws provide that its membership 'shall consist of not more than 250 proprietary members, and of such special members as the Board of Trustees shall determine.' Among the category of 'special members' was one known as 'house,' to which category appellant was admitted in June of 1957. Thereafter appellant contracted with the club to do certain paving work and, upon completion of the job, submitted a bill for his services. The club had no funds and, through its officers, offered appellant a proprietary membership in lieu of cash. Appellant accepted, and a certificate of proprietary membership, signed by the president and secretary of the club and bearing its corporate seal, was delivered to him. The certificate contained the following language: 'Peter DePaul, having paid the sum of \$250 to the Melrose Country Club, is entitled to all the privileges of a proprietary member of the Melrose Country Club, subject to its By-laws, Rules and Regulations, now in effect or as the same may hereafter, from time to time, be made or amended.'

"Appellant was never formally elected to proprietary membership in accordance with the by-laws, nor did he ever pay dues as a proprietary member."

The club contended that despite the fact that the certificate of proprietary membership was issued to the plaintiff, the fact that he was not formally elected to such membership in accordance with the by-laws, and had never paid the dues prescribed for proprietary members, disqualified him from voting in elections.

The Supreme Court agreed with this

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viewpoint, holding with the lower court "that mere ownership of a proprietary membership certificate, without proper election and dues payment, did not entitle appellant to vote."

The Supreme Court concluded its opinion by stating that, although it sustained the Chancellor in his findings of fact it, like the Court of Common Pleas, disagreed with his interpretation of the law as applied to those facts, and so affirmed the ruling of the lower court in favor of the club. (*DePaul v. Melrose Country Club*, 213 A.2d 270.)

(Ed. Note: This decision of the Supreme Court of Pennsylvania indicates that in that State, the constitution and by-laws of a golf or country club cannot be laid away on a shelf and forgotten once they have been adopted. In this case they were strictly construed against a member who had performed services for the club for which his payment had been a certificate of membership. Incidentally, the true value of such a certificate is in question in view of the qualifying clause that the recipient is subject to all by-laws and regulations which may now exist or which may be adopted at any time in the future—a sort of "ex-ante-facto" situation. W. J.)

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