MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Beech Settlement, Inc., Kelly Barksdale, Teresa Boyd, Whitney Jones, and Cynthia Jefferies Long,

Appellants-Plaintiffs,

v.

Indiana Annual Conference-African Methodist Episcopal Church, Inc.,

Appellee-Defendant.

July 17, 2023

Court of Appeals Case No. 22A-CT-1536

Appeal from the Rush Circuit Court

The Honorable Gregory A. Horn, Special Judge

Trial Court Cause No. 70C01-2003-CT-68

Memorandum Decision by Judge Tavitas
Judges Vaidik and Foley concur.

Tavitas, Judge.

Case Summary

[1] The Beech Settlement, Inc., Kelly Barksdale, Teresa Boyd, Whitney Jones, and Cynthia Jeffries Long (collectively, "Appellants") appeal the trial court's grant of summary judgment to the Indiana Annual Conference-African Methodist Episcopal Church, Inc. ("IAC-AME"). Appellants challenge the ownership of property in Rush County, which contains a church that, according to Appellants, was formed by Appellants' ancestors in the early 1800s. In 2000, IAC-AME filed a quiet title action regarding the property, and the litigation was resolved by settlement in 2001. In 2020, Appellants filed their own quiet title action against IAC-AME to challenge the validity of the judgment in the 2000 litigation and ownership of the property. The trial court, however, granted summary judgment to IAC-AME.

[2] On appeal, Appellants raise numerous arguments, but we address the following: (1) whether the 2001 Judgment is void due to lack of subject matter jurisdiction; (2) whether the trial court erred by granting summary judgment to IAC-AME due to res judicata; (3) whether the trial court erred by granting summary judgment to IAC-AME on Appellants' claim of quiet title; and (4) whether the trial court erred by granting summary judgment to IAC-AME on Appellants' claim of adverse possession. We conclude that the 2001 Judgment is not void due to lack of subject matter jurisdiction, at least some of Appellants' claims survive res judicata, and we affirm the trial court's grant of summary judgment on Appellants' quiet title claim. We conclude, however, that genuine issues of

material fact preclude summary judgment on Appellants' adverse possession claim as to the individual Appellants, but not Beech Settlement, Inc. Accordingly, we affirm in part, reverse in part, and remand for further proceedings.[1]

Issues

[3] Appellants raise several issues, and we address the following:

I. Whether the 2001 Judgment is void due to lack of subject matter jurisdiction.

II. Whether the trial court erred by granting summary judgment to IAC-AME regarding its res judicata claims.

III. Whether the trial court erred by granting summary judgment to IAC-AME on Appellants' claim of quiet title.

IV. Whether the trial court erred by granting summary judgment to IAC-AME on Appellants' claim of adverse possession.

Facts

A. Historical Background

[4] In the early 1800s, settlers ("Beech Settlers") moved to Rush County and formed the Beech Settlement. In 1832, the Beech Settlers established the

[1] We held oral argument on April 11, 2023, and we thank counsel for their presentations. After oral argument, the parties unsuccessfully participated in appellate mediation.

Mount Pleasant Church and graveyard. In 1843, the property where the original Church and graveyard were located was conveyed to "Willis Roberts, Macklin Jeffries and James L. Roberts Trustees of the Methodist Episcopal Church (and their successors)[.]" Appellants' App. Vol. II pp. 55, 57. At some point, the Church was moved to a nearby one-acre parcel.[2] Regarding that parcel, an election was held in 1843 and the following was recorded:

> At an Election held at the Methodist Episcopal Church (Called Mount Pleasant), in Ripley Township, Rush county, Indiana on the 28th day of November 1843 for the purpose of Electing Trustees to receive a deed of John Winslow [wife] for the Land whereon said church is erected, John Brooks, John Wadkins, Benjamin Trottee, Marmaduke B. Turner and James D. Roberts, were duly Elected such Trustees.

Id. at 64-65.

[5] The last regular church service at Mount Pleasant Church was held in approximately 1910. Since 1910, descendants of the Beech Settlers ("Beech Descendants") have maintained the property. An annual church service and reunion of the Beech Descendants and others is held every August. IAC-AME provides a pastor for the annual church service and pays for portable toilets for the annual church service and reunion; and the IAC-AME men's choir performs at the annual church service and serves a meal at the annual reunion.

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[2] The graveyard is located approximately three-tenths of a mile from the church.

B. 2000 Litigation

[6] IAC-AME was incorporated in 1997.[3] In June 1999, Attorney Roderick Morgan, who was "retained to represent the Old Beech Governing Committee, which is comprised of the descendants of the Beech Community," sent a letter to the IAC-AME regarding the church property. *Id.* at 73. The letter claimed that the Beech Descendants adversely possessed the property and noted there had been "some conflict with your organization as to who is in control of the property[.]" *Id.* Attorney Morgan requested a meeting to address issues related to the property.

[7] Apparently the parties were unable to resolve the conflict, and in 2000, IAC-AME filed a complaint to quiet title ("2000 Litigation") against:

> Gladys Boatwright, Deceased, Susan Boatwright, Harriet Lee Ellis, Janice Jones, Judith Jones, Kimberly Phelps, Priscella [sic] Phelps, Mildred Vernado, B. Eugene Wilson, Douglas Jones, and All the World; And the Unknown Heirs, Issue, Children, Representatives, Devisees, Widows, or Widowers, Distributees, Legatees, Executors, Administrators, Beneficiaries, Shareholder, Husbands, Wives, Receivers, Lessees, Trustees, Creditors, Successors in Interest, and Assigns of Each and All of the Above and Foregoing Defendants and All Persons Claiming From, Through, or Under Them, the Names of All of Whom are Unknown to the Plaintiff.

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[3] IAC-AME was administratively dissolved in 2019. The Indiana Annual Conference-African Methodist Episcopal Church Inc "with no period" and no comma was then incorporated. Appellants' App. Vol. III p. 9.

Id. at 67. IAC-AME claimed that, "[a]ccording to the Doctrine and Discipline of the African Methodist Episcopal Church, a local church, such as Mt. Pleasant Beech Church, holds the title to all real property in trust for the African Methodist Episcopal Church, Inc." *Id.* at 68.

[8] Summonses were issued by certified mail and served personally upon Mildred Vernado, Priscilla Phelps, and James Jones.[4] Attorney Morgan entered an appearance on behalf of "Gladys Boatwright, Deceased et al," and filed an answer on behalf of the defendants. *Id.* at 75.

[9] In October 2001, IAC-AME filed a settlement agreement with the trial court, and the trial court entered a judgment to quiet title ("2001 Judgment"). The settlement agreement provided: (1) title to the property "shall be quieted in fee simple absolute in the name of [IAC-AME], and the Defendants shall have no ownership interest in the real estate"; (2) IAC-AME approved continuing the annual reunion; (3) funds collected at the annual reunion would be used for maintenance of the property; and (4) "[t]he cost of any approved repairs or maintenance will be paid by [IAC-AME]." *Id.* at 130-31. The settlement agreement was signed by Attorney Morgan. Although Priscilla Phelps was a defendant in the 2000 Litigation, she claims that she was unaware of the

[4] IAC-AME attempted to serve Douglas Jones, but the certified mail was returned because Jones did not live at that address.

settlement agreement and does not know of any descendant who was aware of the settlement agreement.

C. Current Litigation

[10] After the 2001 Judgment, the Beech Descendants continued to maintain the property. In 2015, the Beech Descendants raised $300,000.00 to perform structural repairs on the Church. According to IAC-AME, IAC-AME "approved [and] signed off on the plan . . . ." Appellants' App. Vol. III p. 24. In 2018, due to the Beech Descendants' efforts, Mount Pleasant Church was listed on the National Register of Historic Places. The road leading to the Church is blocked by a locked gate, and Brian Jeffries, one of the Beech Descendants, has the key to the lock. Priscilla Phelps has "received the property tax records for the Parcel from Rush County for at least ten years." *Id.* at 188.

[11] In March 2020, Appellants filed a complaint to quiet title to the property against IAC-AME. Appellants Kelly Barksdale and Teresa Boyd are the children of Priscilla Phelps. Appellant Whitney Jones is the child of Douglas Jones. Priscilla Phelps and Douglas Jones were defendants in the 2000 Litigation. Priscilla Phelps is the registered agent, incorporator, and principal of the Appellant Beech Settlement, Inc., which was incorporated in August

2017.[5] The record does not reflect Cynthia Jeffries Long's relationship to any of the 2000 Litigation defendants.

[12] Appellants claimed that the 2001 Judgment was "improperly obtained" and that the 2001 Judgment is "void for lack of subject matter jurisdiction." Appellants' App. Vol. II pp. 29-30, 35. Appellants also argued that they are entitled to judgment under the doctrine of adverse possession because the Beech Descendants have openly and notoriously occupied the land at issue since the 2001 Judgment.

[13] In November 2021, IAC-AME filed a motion for summary judgment. IAC-AME argued, in part, that: (1) the claims of Beech Settlement, Inc., Kelly Barksdale, Teresa Boyd, and Whitney Jones were barred by res judicata as a result of the 2001 Judgment; (2) Appellants had no claim to legal or equitable title of the property; and (3) Appellants could not meet the elements of adverse possession.

[14] Appellants filed a response to the motion for summary judgment and designated, in part, the affidavits of Priscilla Phelps and Brian Jeffries. Priscilla Phelps's affidavit provides, in part:

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[5] In their Reply Brief, Appellants claim that the Beech Settlement, Inc. was "founded by the original settlers before the 2000 Complaint then later incorporated by Phelps and Sherry Boudoin." Appellants' Reply Br. p. 15. Appellants, however, do not explain how the corporation was founded before it was incorporated in 2017.

6. The Parcel was deeded to my ancestors and the ancestors of the other Plaintiffs in the above-captioned matter for use as a Methodist Episcopal Church.

* * * * *

14. Since regular services ended in 1910, the Parcel and church building have been maintained by board members of Beech Settlement, Inc., individual Plaintiffs, and the ancestors of Beech Settlement, Inc. board members and individual Plaintiffs. These individuals have maintained the Parcel and church building due to its personal significance as being established by our ancestors and due to its historical significance.

* * * * *

19. Plaintiffs have maintained the lock and key to the gate at the lane entry since at least 1985.

20. Defendant does not have a key to the gate lock.

21. If Defendant, or anyone else, wants to access the property they have to contact Plaintiffs and be escorted onto the property.

22. Plaintiffs and their ancestors have maintained the church building for the last 110 years, including performing maintenance tasks such as repairing pews, patching leaks, replacing broken windows, cutting grass, pulling weeds, planting flowers, trimming trees and all other such tasks necessary to maintain the property. . . .

Appellants' App. Vol. III pp 187-88.

[15] Brian Jeffries's affidavit provided, in part:

> 6. The Parcel was deeded to my ancestors and the ancestors of the other Plaintiffs in the above-captioned matter for use as a Methodist Episcopal Church.
>
> * * * * *
>
> 13. Prior to 2018, the church was in a severely dilapidated state and in need of extensive repairs.
>
> 14. As a result, Plaintiffs raised over $180,000 to have the church building fully restored[.]
>
> 15. Plaintiffs partnered with community supports like Indiana Landmarks to create a dedicated bank account to oversee all expenditures for the restoration of the church building.
>
> 16. Plaintiffs coordinated the renovation work with the contractor. . . .

Id. at 194-95.

[16] After a hearing, the trial court granted IAC-AME's motion for summary judgment. The trial court found that any defects in service in the 2000 Litigation do not impact the trial court's subject matter jurisdiction and that the 2001 Judgment was not void. Regarding Appellants' quiet title and adverse possession claims, the trial court held, in part: (1) the Beech Settlement, Inc., was formed in 2017 and "inherently cannot meet the ten (10) year duration requirement" for adverse possession because the entity has not even existed for

ten years; (2) although Priscilla Phelps and Brian Jeffries submitted affidavits detailing their conduct as to the property, neither are plaintiffs in this litigation; (3) Appellants' alleged use of the property was nonexclusive; and (4) there is no designated evidence showing notice to IAC-AME of the individual Appellants' claims of ownership to the property. *Id.* at 23. Appellants now appeal.

Discussion and Decision

[17] Appellants challenge the trial court's grant of summary judgment to IAC-AME on Appellants' complaint. "'When this Court reviews a grant or denial of a motion for summary judgment, we stand in the shoes of the trial court.'" *Minser v. DeKalb Cnty. Plan Comm'n*, 170 N.E.3d 1093, 1098 (Ind. Ct. App. 2021) (quoting *Burton v. Benner*, 140 N.E.3d 848, 851 (Ind. 2020)). "Summary judgment is appropriate 'if the designated evidentiary matter shows that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.'" *Id*. (quoting *Murray v. Indianapolis Public Schools*, 128 N.E.3d 450, 452 (Ind. 2019)); *see also* Ind. Trial Rule 56(C).

[18] The summary judgment movant invokes the burden of making a *prima facie* showing that there is no issue of material fact and that it is entitled to judgment as a matter of law. *Burton*, 140 N.E.3d at 851. The burden shifts to the non-moving party which must then show the existence of a genuine issue of material fact. *Id*. On appellate review, we resolve "[a]ny doubt as to any facts or inferences to be drawn therefrom . . . in favor of the non-moving party." *Id*.

[19] We review the trial court's ruling on a motion for summary judgment de novo, and we take "care to ensure that no party is denied his day in court." *Schoettmer v. Wright*, 992 N.E.2d 702, 706 (Ind. 2013). "We limit our review to the materials designated at the trial level." *Gunderson v. State, Ind. Dep't of Nat. Res.*, 90 N.E.3d 1171, 1175 (Ind. 2018). Because the trial court entered findings of fact and conclusions thereon, we also reiterate that findings of fact and conclusions thereon entered by the trial court aid our review, but they do not bind us. *In re Supervised Estate of Kent*, 99 N.E.3d 634, 637 (Ind. 2018).

I. Subject Matter Jurisdiction

[20] Appellants first argue that the trial court in the 2000 Litigation lacked subject matter jurisdiction and, thus, the 2001 Judgment is void. Trial courts possess two kinds of jurisdiction—subject matter jurisdiction and personal jurisdiction. *K.S. v. State*, 849 N.E.2d 538, 540 (Ind. 2006). "Subject matter jurisdiction refers to a court's constitutional or statutory power to hear and adjudicate a certain type of case." *D.P. v. State*, 151 N.E.3d 1210, 1213 (Ind. 2020). "When a court lacks subject matter jurisdiction, any judgment it enters is void." *Id.* The lack of subject matter jurisdiction cannot be waived. *Town Council of New Harmony v. Parker*, 726 N.E.2d 1217, 1223 (Ind. 2000), *amended on reh'g in part*, 737 N.E.2d 719 (Ind. 2000).

[21] "Personal jurisdiction exists when a defendant both has sufficient minimum contacts within the state to justify a court subjecting the defendant to its control, and has received proper notice of a suit against him in that court." *R.L. Turner Corp. v. Town of Brownsburg*, 963 N.E.2d 453, 457 (Ind. 2012). "'[A] party can

waive lack of personal jurisdiction and submit [itself] to the jurisdiction of the court if [it] responds or appears and does not contest the lack of jurisdiction.'" *Liberty First Bank v. Auto. Fin. Corp.*, 179 N.E.3d 510, 512 (Ind. Ct. App. 2021) (quoting *Heartland Res., Inc. v. Bedel*, 903 N.E.2d 1004, 1007 (Ind. Ct. App. 2009)).

[22] Our Supreme Court has noted a "tendency to confuse jurisdictional defects with legal errors." *R.L. Turner Corp.*, 963 N.E.2d at 457. "Indeed, a party who was asleep at the wheel has a powerful incentive to couch a claim of procedural error as a jurisdictional defect either to circumvent the doctrine of waiver or to open up an avenue for collateral attack." *Id.*

[23] In support of its argument that the trial court lacked subject matter jurisdiction of the 2000 Litigation and that the 2001 Judgment is void, Appellants contend: (A) the quiet title statute in 2000 required IAC-AME to publish notice for the trial court to acquire subject matter jurisdiction; and (B) the trial court lacked subject matter jurisdiction in the 2000 Litigation because IAC-AME was relying upon church doctrine.[6]

[6] Appellants also argue that there is a genuine issue of material fact as to whether Attorney Morgan represented all of the defendants in the 2000 Litigation. Appellants, however, do not explain how Attorney Morgan's representation of the defendants in the 2000 Litigation (or lack thereof) impacted the trial court's constitutional or statutory power to hear and adjudicate a quiet title action. Attorney Morgan's representation of the defendants in the 2000 litigation does not impact subject matter jurisdiction, and this argument fails.

A. Publication

[24] In 2000, when IAC-AME filed its quiet title action, Indiana Code Section 32-6-4-1 (now repealed), provided:

> Upon the filing of such complaint and affidavit, and also upon filing of an **affidavit for publication of notice** as now required by law, the clerk shall publish notice of the filing and pendency of such suit and when the same will be called for action, as is now required by law in suits for the foreclosure of mortgages upon lands, in which publication, the defendants who are named as the unknown husband or wife, or widow or widower or as the unknown heirs or devisees, shall be thus designated and described; and it shall be stated that the suit or proceeding is prosecuted to quiet the title to the lands therein mentioned and described as against all demands, claims and claimants whatsoever, which lands shall be fully described in said publication of notice of the pendency of such action.
>
> **When such complaint or other initial proceeding shall have been filed, and proof of such publication or publications shall have been made to the court, after the expiration of thirty (30) days from the last publication of such notice, the court in which [the] proceeding is pending shall have full power, authority and jurisdiction to hear and determine all matters presented** in such suit or proceeding with the same force and effect as if the full names of all the parties and possible claimants have been known and had been sued as parties defendant by their proper names, and all decrees, orders, judgments and proceedings had with respect to the title of such lands shall be binding and conclusive upon all persons whomsoever, and such proceedings shall be taken as a proceeding in rem as against said lands.

(emphasis added).

[25] Appellants contend that, in the 2000 Litigation, IAC-AME failed to file an affidavit for publication of notice and that notice of the quiet title action was never published. Appellants argue that the use of the word "jurisdiction" in the statute refers to subject matter jurisdiction. IAC-AME, however, argues that Appellants' argument goes to personal jurisdiction, not subject matter jurisdiction, and that the issue was waived by the defendants in the 2000 Litigation when Attorney Morgan entered an appearance for the defendants and participated in the litigation.[7]

[26] The use of the word "jurisdiction" in a statute does not always refer to subject matter jurisdiction. For example, in *Packard v. Shoopman*, 852 N.E.2d 927 (Ind. 2006), our Supreme Court considered the use of the term "jurisdiction" in Indiana Code Section 33-26-6-2, which provided: "If a taxpayer fails to comply with any statutory requirement for the initiation of an original tax appeal, the tax court does not have jurisdiction to hear the appeal." The Court concluded that compliance with the statutory requirements for initiation of an original tax appeal did "not affect the subject matter jurisdiction of the Tax Court" and, when Indiana Code Section 33-26-6-2 was passed, "the General Assembly used 'jurisdiction' to refer to the now abolished 'jurisdiction over the particular case[.]'" *Packard*, 852 N.E.2d at 930.

[7] In Appellants' Reply brief, Appellants claim that IAC-AME did not address this issue in its Appellee's Brief. *See* Appellants' Reply Br. p. 7 n.1. IAC-AME, however, did address this issue. *See* Appellee's Br. p. 14-17.

[27] Similarly, here, the use of the term "jurisdiction" in the now repealed Indiana Code Section 32-6-4-1 does not refer to subject matter jurisdiction, i.e., the trial court's constitutional or statutory power to hear and adjudicate a quiet title action. Rather, the plain language of the statute discusses the establishment of personal jurisdiction, i.e., whether a defendant has received proper notice of suit against him or her in that court. Accordingly, Appellant's contention that the 2001 Judgment is void due to lack of subject matter jurisdiction pursuant to the now repealed statute fails.

B. Church Doctrine

[28] Next, Appellants argue that the 2000 Litigation was based upon church doctrine, and courts "cannot resolve property disputes based on church doctrine." Appellants' Br. p. 25. Appellants seem to argue that the 2000 Litigation was based only on "Doctrine and Discipline of the AME Church" and, thus, the trial court did not have subject matter jurisdiction. *Id*. at 26. IAC-AME argues, in part, that Appellants' contention fails pursuant to our Supreme Court's decision in *Presbytery of Ohio Valley, Inc. v. OPC, Inc*., 973 N.E.2d 1099, 1104 (Ind. 2012).

[29] In *Presbytery of Ohio Valley,* 973 N.E.2d at 1104, our Supreme Court held that, "[a]s a general matter, it is clear that **Indiana courts have subject-matter jurisdiction over Indiana church-property disputes**." (emphasis added). "'[T]he First Amendment severely circumscribes the role that civil courts may play in resolving church property disputes'" and "prohibit[s] civil courts from resolving church property disputes on the basis of religious doctrine and

practice." *Id.* at 1105 (quoting *Jones v. Wolf*, 443 U.S. 595, 602, 99 S. Ct. 3020, 3025 (1979)). The Court adopted the "neutral-principles-of-law approach," which is:

> completely secular in operation, and yet flexible enough to accommodate all forms of religious organization and polity. The method relies exclusively on objective, well-established concepts of trust and property law familiar to lawyers and judges. *Jones*, 443 U.S. at 603, 99 S. Ct. at 3025. The neutral-principles approach was first developed by Maryland and Georgia. *See id.* at 602-04, 99 S. Ct. at 3025-26. In reviewing the application of the approach in those states, the Court noted that when determining whether a trust had been created, the state courts considered the "language of the deeds, the terms of the local church charters, the state statutes governing the holding of church property, and the provisions in the constitution of the general church concerning the ownership and control of church property." *Id.* But, the Court cautioned that, where civil courts undertake an examination of "certain religious documents, such as a church constitution," they "must take special care to scrutinize the document in purely secular terms." *Id.* at 604, 99 S. Ct. at 3026. In this respect, the civil courts will give effect to the intention of the parties, "provided it is embodied in some legally cognizable form." *Id.* at 606, 99 S. Ct. at 3027. This allows "States, religious organizations, and individuals [to] structure relationships involving church property so as not to require the civil courts to resolve ecclesiastical questions." *Id.* at 604, 99 S. Ct. at 3026 (quoting [*Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church,* 393 U.S. 440, 449, 89 S. Ct. 601, 606 (1969)]) (alteration in original) (internal quotation marks omitted).

Id. at 1106.

[30] In the application of the neutral-principles-of-law approach, "Indiana courts may consider Indiana statutes, the language of the deeds and conveyances, the local church charters or articles of incorporation, the constitution of the denominational church organization, and any other relevant and admissible evidence provided they 'scrutinize the[se] document[s] in purely secular terms' consistent with Indiana law." *Id.* at 1107 (quoting *Jones*, 443 U.S. at 604, 99 S. Ct. at 3026). Indiana courts should "apply neutral principles of Indiana trust and property law without regard to the organizational structure of the religious denomination . . . whether interpreting the language of a deed or conveyance or determining whether there exists an express or implied (constructive or resulting) trust." *Id.* at 1107-08.

[31] Appellants ignore the express language of *Presbytery of Ohio Valley* that trial courts have subject matter jurisdiction over church property disputes. Given our Supreme Court's express holding in *Presbytery of Ohio Valley*, Appellants' subject matter jurisdiction argument fails. Accordingly, we conclude that Appellants failed to demonstrate that the trial court lacked subject matter jurisdiction of the 2000 litigation. Appellants' argument that the 2001 Judgment is void due to lack of subject matter jurisdiction, thus, fails.

II. Res Judicata

[32] IAC-AME argued in its motion for summary judgment that Appellants' claims were barred by res judicata. The trial court agreed that res judicata applied here at least to Beech Settlement, Inc., (incorporated by Priscilla Phelps), Kelly Barksdale and Teresa Boyd (the children of Priscilla Phelps), and Whitney

Jones (daughter of Douglas Jones). The trial court's order does not mention Cynthia Jeffries Long. Appellants appeal this determination.

[33] There are two branches of res judicata: claim preclusion and issue preclusion. *Matter of Eq.W.*, 124 N.E.3d 1201, 1209 (Ind. 2019). "Res judicata, whether in the form of claim preclusion or issue preclusion (also called collateral estoppel), aims to prevent repetitious litigation of disputes that are essentially the same, by holding a prior final judgment binding against both the original parties and their privies." *Becker v. State*, 992 N.E.2d 697, 700 (Ind. 2013). Appellants argue that IAC-AME did not establish either claim preclusion or issue preclusion.

[34] "Claim preclusion can be used to bar a successive lawsuit when 'a particular issue is adjudicated and then put in issue in a subsequent suit on a different cause of action between the same parties or their privies.'" *Eq.W.*, 124 N.E.3d at 1209 (quoting *Ind. Alcohol & Tobacco Comm'n v. Spirited Sales*, 79 N.E.3d 371, 381 (Ind. 2017)). Before a court can find that claim preclusion applies to bar a subsequent action, four essential elements must be met:

> (1) The former judgment must have been rendered by a court of competent jurisdiction;
>
> (2) The former judgment must have been rendered on the merits;
>
> (3) The matter now in issue was or might have been determined in the former suit; and
>
> (4) The controversy adjudicated in the former suit must have been between the parties to the present action or their privies.

Id. (citing *Ind. State Ethics Comm'n v. Sanchez*, 18 N.E.3d 988, 993 (Ind. 2014)).

[35] On the other hand, "[i]ssue preclusion, or collateral estoppel, bars subsequent relitigation of the same fact or issue where that fact or issue was necessarily adjudicated in a former lawsuit and that same fact or issue is presented in a subsequent suit." *Nat'l Wine & Spirits, Inc. v. Ernst & Young, LLP*, 976 N.E.2d 699, 704 (Ind. 2012). "This rule applies even if the second adjudication is on a different claim." *Id.* "There are three requirements for the doctrine of collateral estoppel to apply: (1) a final judgment on the merits in a court of competent jurisdiction; (2) identity of the issues; and (3) the party to be estopped was a party or the privity of a party in the prior action." *Id.*

[36] Both claim preclusion or issue preclusion require that the issue presented in the 2001 Judgment and the current litigation be the same. Although some of Appellants' claims overlap with the claims resolved by the 2001 Judgment, Appellants' adverse possession claim relates to the parties' conduct after the 2001 Judgment and is completely separate from the issues addressed by the 2001 Judgment. Accordingly, Appellants' adverse possession claim is not barred by res judicata, and we will address this claim. Moreover, the trial court's order does not mention Appellant Cynthia Jeffries Long, and IAC-AME concedes that Cynthia Jeffries Long is not a party or the privity of a party to the 2000 Litigation. Accordingly, res judicata would not bar Cynthia Jeffries Long's claims, and we will address Appellants' quiet title claim.

III. Quiet Title Action

[37] Appellants also claim that the trial court erred by granting summary judgment to IAC-AME on Appellants' quiet title claim. In general, a quiet title action is governed by Indiana Code Section 32-30-2-20, which provides:

> An action to determine and quiet a question of title to property may be brought by a plaintiff who:
>
> (1) is in possession of the property;
>
> (2) is out of possession of the property; or
>
> (3) has a remainder or reversion interest in the property;
>
> against a defendant who claims title to or an interest in the real property with a claim that is adverse to the plaintiff, even if the defendant is not in possession of the property.

[38] "An action to quiet title brings into issue all claims regarding the property in question." *Chmiel v. US Bank Nat'l Ass'n*, 109 N.E.3d 398, 407 (Ind. Ct. App. 2018). "A plaintiff may recover only upon the strength of his own title and must show that he has legal title with a present right of possession paramount to the title of the defendant." *Id.* "It is therefore appropriate for a defendant to prove that the plaintiff does not have title or interest in the property." *Id.* In the summary judgment context, IAC-AME, thus, had the burden of demonstrating that Appellants did not have legal title to the property. *See id*.

[39] Appellants claim that IAC-AME has no present right of possession to the property if the 2001 Judgment is voided. We, however, have held that the 2001 Judgment is not void. Accordingly, IAC-AME has title to the property pursuant to the 2001 Judgment, and Appellants' argument fails.

[40] Further, Appellants' claim that they designated deeds showing that "the Descendants were the true owners of the Parcel, holding it in trust for the Methodist Episcopal Church known as Mount Pleasant." Appellants' Br. p. 31. The designated evidence shows that, regarding this one-acre parcel, an election was held in 1843 and the following was recorded:

> At an Election held at the Methodist Episcopal Church (Called Mount Pleasant), in Ripley Township, Rush county, Indiana on the 28th day of November 1843 for the purpose of Electing Trustees to receive a deed of John Winslow [wife] for the Land whereon said church is erected, John Brooks, John Wadkins, Benjamin Trottee, Marmaduke B. Turner and James D. Roberts, were duly Elected such Trustees.

Appellants' App. Vol. II p. 64-65. There were no further conveyances or recordings related to the property until the 2000 quiet title litigation.

[41] Although Appellants claim title to the property through this 1843 conveyance, they did not designate any evidence showing any relationship whatsoever between Appellants and the trustees named in this recording or any status as a successor trustee. It is not enough for Appellants to simply claim a relationship to the original Beech Settlers. Under these circumstances, the trial court did not

err by granting summary judgment to IAC-AME on Appellants' quiet title claim.[8]

IV. Adverse Possession

[42] Finally, Appellants claim that the trial court erred by granting summary judgment to IAC-AME on Appellants' adverse possession claim. Regarding adverse possession claims, our Supreme Court has held:

> [T]he doctrine of adverse possession entitles a person without title to obtain ownership to a parcel of land upon clear and convincing proof of control, intent, notice, and duration, as follows:
>
> (1) Control—The claimant must exercise a degree of use and control over the parcel that is normal and customary considering the characteristics of the land (reflecting the former elements of "actual," and in some ways "exclusive," possession);
>
> (2) Intent—The claimant must demonstrate intent to claim full ownership of the tract superior to the rights of all others, particularly the legal owner (reflecting the former elements of "claim of right," "exclusive," "hostile," and "adverse");
>
> (3) Notice—The claimant's actions with respect to the land must be sufficient to give actual or constructive notice to the legal owner of the claimant's intent and exclusive control (reflecting

[8] The trial court also found that Appellants' quiet title claim was barred by the statute of limitations. Given our resolution of the quiet title action, we need not address the statute of limitations arguments.

> the former "visible," "open," "notorious," and in some ways the "hostile," elements); and,
>
> (4) Duration—the claimant must satisfy each of these elements continuously for the required period of time (reflecting the former "continuous" element).

Celebration Worship Ctr., Inc. v. Tucker, 35 N.E.3d 251, 254 (Ind. 2015) (quoting *Fraley v. Minger*, 829 N.E.2d 476, 486 (Ind. 2005)). The requisite period of time for adverse possession is ten years.[9] *Id.*; *see* Ind. Code § 34-11-2-11.

[43] "The failure to establish any one element of an adverse possession claim defeats the claim." *Knauff v. Hovermale*, 976 N.E.2d 1267, 1270 (Ind. Ct. App. 2012) (citing *Fraley*, 829 N.E.2d at 476). "[O]nce a party establishe[s] the elements of adverse possession, 'fee simple title to the disputed tract of land is conferred upon the possessor by operation of law, and title is extinguished in the original owner.'" *Id.* (quoting *Garriott v. Peters*, 878 N.E.2d 431, 439 (Ind. Ct. App. 2007), *trans. denied*).

[44] In response to IAC-AME's motion for summary judgment, Appellants designated evidence that they have not abided by the settlement agreement and

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[9] In addition to these elements, Indiana Code Section 32-21-7-1(a) provides that "the adverse possessor pay[ ] all taxes and special assessments that the adverse possessor reasonably believes in good faith to be due on the real property during the period the adverse possessor claims to have adversely possessed the real property." "Substantial compliance satisfies this statutory tax payment requirement 'where the adverse claimant has a reasonable and good faith belief that the claimant is paying the taxes during the period of adverse possession.'" *Celebration Worship*, 35 N.E.3d at 254 (quoting *Fraley*, 829 N.E.2d at 493). Although Priscilla Phelps was listed as the responsible party on tax records, payment of taxes is not an issue in this case because property taxes were not assessed against the property.

IAC-AME has not attempted to enforce compliance with the settlement agreement. Appellants have a gate and lock on the driveway to the church, and they maintain the keys. IAC-AME does not have a key to the lock. Appellants also designated evidence that they "and their ancestors have maintained the church building for the last 110 years, including performing maintenance tasks such as repairing pews, patching leaks, replacing broken windows, cutting grass, pulling weeds, planting flowers, trimming trees and all other such tasks necessary to maintain the property." Appellants' App. Vol. III p. 188. Further, IAC-AME "has never contributed to the ongoing maintenance costs associated with the Parcel and church building." *Id.* at 189. Appellants raised funds to renovate the church building and arranged for the church to be placed on the National Register of Historic Places.

[45] These facts are sufficient to demonstrate a genuine issue of material fact regarding Appellants' control, intent, and notice for their adverse possession claim. We acknowledge, as the trial court did, that Appellants failed to designate detailed information on the individual Appellants, their relationships to the property, and their individual actions to establish adverse possession. At the summary judgment stage, however, even "a perfunctory and self-serving" affidavit can establish a genuine issue of material fact to preclude summary judgment. *Hughley v. State*, 15 N.E.3d 1000, 1004 (Ind. 2014).

[46] As for duration, "the claimant must satisfy each of these elements continuously" for ten years. *Celebration Worship Ctr.*, 35 N.E.3d at 254. Appellants designated evidence that they "and their ancestors have maintained

the church building for the last 110 years . . . ." Appellants' App. Vol. III p. 188. This evidence is sufficient to establish a genuine issue of material fact to preclude summary judgment as to the individual Appellants. IAC-AME, however, points out that Beech Settlement, Inc. was incorporated in August 2017 and, thus, cannot meet the ten-year adverse possession requirement because the instant complaint was filed in March 2020. Accordingly, although the individual Appellants established a genuine issue of material fact to preclude summary judgment on their adverse possession claim, the trial court properly granted summary judgment to IAC-AME on Beech Settlement, Inc.'s adverse possession claim.

Conclusion

[47] Contrary to Appellants' argument, the 2001 Judgment was not void due to lack of subject matter jurisdiction. Moreover, res judicata does not preclude all of Appellants' claims, and the trial court did not err by granting IAC-AME's motion for summary judgment regarding Appellants' quiet title claim and Beech Settlement, Inc.'s adverse possession claim. The trial court, however, erred by granting IAC-AME's motion for summary judgment regarding the individual Appellants' adverse possession claim. Accordingly, we affirm in part, reverse in part, and remand for further proceedings.

[48] Affirmed in part, reversed in part, and remanded.

Vaidik, J., and Foley, J., concur.