UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 96-20716
Summary Calendar

CARVERDALE COMMUNITY FELLOWSHIP CHURCH OF GOD IN CHRIST, INC.; ET AL.,

Plaintiffs,

CARVERDALE COMMUNITY FELLOWSHIP CHURCH OF GOD IN CHRIST, INC.,

Plaintiff-Appellee,

VERSUS

R.L. JOHNSON; ET AL.,

Defendants,

CARVERDALE CIVIC CLUB,

Defendant-Appellant.

Appeal from the United States District Court
For the Southern District of Texas

(96-CV-561)

July 2, 1997

Before JONES, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

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* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

The Carverdale Civic Club appeals the district court's order granting summary judgment to the Carverdale Community Fellowship Church of God in Christ, Inc. ("the Church") declaring the relevant lots owned by the Church to be free of residential-use deed restrictions and thereby laying to rest the purported deed restrictions alleged by the Carverdale Civic Club to bar the Church's plans to build on its property in Carverdale. The Carverdale Civic Club comes to this court rearguing the legal theories supporting deed restrictions on the relevant lots that it had presented to the district court. Such are valid theories supported by the land use case law of Texas; however, the appellant failed to produce facts supporting an application of those theories to the lots at hand. The summary judgment procedure places some obligations on the nonmoving party and does not permit that party to rest on a plea that he may produce opposing facts at trial. *Gossett v. Du-Ra-Kel Corp.*, 569 F.2d 869, 873 (5th Cir. 1978). We AFFIRM the district court.