

[TYSER, C.J. AND FISHER, J.]

April 16, 1913.

POLICE

v.

PARASKEVA GEORGI AND ANOTHER

CRIMINAL PROCEDURE—MAGISTERIAL COURT—SUMMARY JURISDICTION—CHARGE NOT WITHIN THE CYPRUS COURTS OF JUSTICE ORDER, 1908, SCHEDULE 1, PART 1—CONSENT—CONVICTION OF OFFENCE WITHIN SUMMARY JURISDICTION WITH CONSENT.

The Appellants were brought before a Magisterial Court charged with larceny and unlawful possession of some rafters the value of which was not stated in the charges. They consented to be tried summarily and pleaded not guilty. The evidence for the prosecution showed that the value of the rafters was more than £2, but after some evidence for the defence had been heard the charges were modified (without any formal amendment being made) so as to reduce the value of the subject matter of the charges to under £2. The Court convicted the Appellants.

HELD: *That the convictions were bad inasmuch as the consent of the Appellants to be tried summarily had been given in respect of offences which it was not competent for the Court to try summarily and no consent to be dealt with summarily had been given by them in respect of the offences of which they had been convicted.*

[TYSER, C.J. AND FISHER, J.]

April 27, 1914.

HEIRS OF HAJI CHRISTOFI TZINGO

v.

CONSTANTINO HAJI TZINGO.

PRACTICE—ORDER XXII, RULE 6 RIFFREE—REPORT—APPLICATION FOR JUDGMENT.

The Plaintiffs brought an action against the Defendant which was referred to a referee who duly filed a report. Upon the hearing of an application by the Plaintiffs for judgment in accordance with the report, the report was read in the presence of the advocates for the parties, and no objection being raised by the Defendant's advocate judgment was given in accordance therewith.

The Defendant appealed against the judgment alleging that the report dealt with matters not included in the reference.

HELD: *That having failed to raise any objection on the hearing of the application for judgment he was precluded from raising the question of the validity of the report on appeal.*

[TYSER, C.J. AND FISHER, J.]

December 4, 1914.

AGATHI APEYTOU

v.

JOSEPH PRINCE.

PRACTICE—JUDGMENT BY DEFAULT—APPLICATION TO SET ASIDE—APPEAL—ORDER XIV, RULE 4—ORDER XVII, RULE 1.

The Plaintiff sued the Defendant to recover a sum of money. At the hearing before the District Court the Plaintiff failed to appear, and judgment was given for the Defendant dismissing the action with costs.

The Plaintiff applied to the District Court to set aside the judgment on the grounds that he had been prevented from prosecuting his claim owing to surprise or accident within the meaning of Rule 1 of Order XVII of the Rules of Court, 1886. The District Court refused the application with costs. The Plaintiff then appealed to the Supreme Court against the original judgment dismissing the action.

HELD: *That there being no appeal against the order of the District Court refusing to set aside the judgment such order was final and debarred the Appellant from succeeding in the appeal against the original judgment.*

[TYSER, C.J. AND FISHER, J.]

February 26, 1916.

REX

v.

PANAYOTI YANKOU.

CRIMINAL PROCEDURE—CYPRUS COURTS OF JUSTICE ORDER, 1882, CLAUSE 124.

An accused person who has made a statement under the provisions of Clause 124 of the Cyprus Courts of Justice Order, 1882, must not be asked questions as to matters affecting his credit or character by the prosecuting officer, even though in the course of his statement he has endeavoured to establish his own good character.

[TYSER, C.J. AND FISHER, J.]

March 10, 1916.

THE COMMITTEE OF THE ARMENIAN CHURCH, NICOSIA

v.

ERANOUCHESSAIAN AND OTHERS.

CIVIL PROCEDURE—APPEAL—"JUDGMENT" OR "ORDER"—ORDER XXI,
RULES 7, 8.

An appeal from a decision by a Judge of a District Court on a review of taxation by the Registrar of costs awarded by a judgment of a District Court, subject to taxation, is an appeal from an order and is subject to the provisions of Rule 8 of Order XXI.

[TYSER, C.J. AND FISHER, J.]

April 28, 1916.

POLICE

v.

YONA CHRISTO.

CRIMINAL PROCEDURE—MAGISTERIAL COURTS—CONVICTION QUASHED FOR
UNCERTAINTY.

The accused was brought before a Magisterial Court on a summons containing two charges, viz. : (1) theft : (2) possession of property reasonably suspected of being stolen. To these charges he pleaded not guilty and he was remanded. On being again brought before the Magistrate he made a statement which the Magistrate treated as a plea of guilty and, without hearing any evidence, sentenced the accused to a term of imprisonment.

There was no formal conviction and nothing on the record to show of which of the two charges the accused had been convicted.

HELD: *That the conviction must be set aside for uncertainty.*