

**CASES**  
DECIDED BY THE  
**SUPREME COURT OF CYPRUS**  
AND BY THE ASSIZE COURTS.

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

B. C. PETRIDES  
v.  
DERVISH MEHMED ALI.

TYSER, C.J.  
&  
FISHER, J.  
1918  
June 28

SALE BY AUCTION UNDER DIRECTION OF LAND REGISTRY OFFICE—TENDER TO  
AUCTIONEER AT SALE—DUTY OF AUCTIONEER.

*The Plaintiff was mortgagee of a house and land belonging to the Defendant and obtained a judgment of a District Court ordering the sale of the mortgaged property. The sale took place under the direction of the Land Registry Office and the land was sold first and the amount realised was sufficient to pay off the mortgage debt with the exception of between £2 and £3.*

*Thereupon tender was made to the auctioneer, by a person acting on behalf of the Defendant, of a sum of £3 with a view to stopping the sale of the house. The auctioneer refused to accept the sum tendered and proceeded with the sale of the house.*

*One Loizo Tofallides became the purchaser of the house and it was subsequently registered in his name. The Defendant applied to the District Court to set aside the sale and cancel the registration on the ground, inter alia, that the auctioneer should have accepted the tender and desisted from selling the house. The District Court upheld the contention of the Defendant and made an order setting aside the sale and cancelling the registration.*

*HELD (reversing the decision of the District Court) : That in the absence of any authority to do otherwise, the auctioneer was bound to carry out his instructions and proceed with the sale.*

This was an appeal from an order of the District Court of Kyrenia.

The facts sufficiently appear from the head-note.

*Sava Christis* for the Appellant, *Loizo Tofallides*.

*Behaeddin* for the Respondent.

*Judgment :* In this case it was contended by the Respondent that the order of the District Court should be upheld (1) because the sale was irregular by reason of a tender of the balance due in respect of

TYSER, C.J. the judgment to satisfy which the property was put up for sale, and  
 &  
 FISHER, J. (2) because the sale was fraudulent on the ground that there was  
 collusion between the purchaser and the auctioneer. There was no  
 evidence in support of the latter contention and the only point calling  
 for serious consideration was whether the auctioneer should have  
 accepted the tender, which was admittedly made, and thereupon  
 discontinued the sale.

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In our opinion the auctioneer acted rightly in proceeding with the sale. His authority to conduct the sale was embodied in an order from the Land Registry Office to sell the property. The order was unqualified, and he did as the order directed him to do. Had he accepted the tender and discontinued the sale he would have acted in disobedience to the order, and done something which he was not authorised to do. The question whether it is not desirable to give auctioneers authority to discontinue a sale under circumstances such as those in the present case may be worthy of consideration.

The order of the District Court must be set aside.

*Appeal allowed with costs.*