

for violence, but also six convictions for drunkenness and six convictions for driving furiously, recklessly and when drunk. Not only was he drunk on the occasion in June which is the subject-matter of this case, but at the end of 1945 he was convicted for driving while drunk. On that occasion in June, a person was killed, at least partly as the result of his negligence. Two months later, in August, again due to his negligence, three people were killed, and he was sentenced on the 22nd January, 1954, for this offence, to four months' imprisonment and was disqualified from holding a licence for five years.

1954  
June 2  
COSTAS  
LOUCA  
LATTA  
v.  
POLICE.

Not only has the appellant this appalling record but we must also remember that negligent driving which causes death is a prevalent offence in this country. We consider that the appellant only gets his merits and the public can only be protected and future offenders deterred by imposing an additional penalty to the sentence which has already been imposed on him.

*We confirm the sentence of 12 months' imprisonment and in addition the appellant will be disqualified for life from holding a licence to drive a motor car.*

[HALLINAN, C.J., AND ZEKIA, J.]  
(June 8, 1954)

LOUKIS KYTHREOTIS, *Appellant*,  
v.  
IOANNIS KOLAKIDES, *Respondent*.  
(*Civil Appeal No. 4090*)

1954  
June 8  
LOUKIS  
KYTHREOTIS  
v.  
IOANNIS  
KOLAKIDES.

*Increase of Rent (Restriction) Law, Cap. 108—Validity of consent order—Termination of statutory tenancy—Effect on sub-tenant.*

The plaintiff leased certain premises to Trehandiris who later became a statutory tenant and as such sub-let in 1949 to the defendant. Trehandiris' tenancy was terminated by an order of the Court made with Trehandiris' consent in October 1952 and Trehandiris vacated the premises in March or April, 1953. The plaintiff sued to eject the defendant. The trial Court delivered judgment on 29th March, 1954, allowing the plaintiff's claim.

Upon appeal,

*Held:* (1) The consent order terminating Trehandiris' tenancy was valid. (*Middleton v. Baldock*, 1950, 1 A.E.R. 208 followed).

(2) Under the Increase of Rent (Restriction) Law, Cap. 108, which was in force when the trial Court made the order the subject of this appeal, the sub-tenancy terminated when Trehandiris' tenancy terminated, and the defendant thereupon became a trespasser. *Secus* had the effect of section 24 of the Rent Control Law, No. 13 of 1954, (which came into operation on the 13th March, 1954) been retrospective.

Appeal dismissed.

1954  
June 8

LOUKIS  
KYTHREOTIS  
v.  
IOANNIS  
KOLAKIDES.

Appeal by defendant from the judgment of the District Court of Nicosia ( Action No. 2494/53 ) in favour of plaintiff.

*Ch. Ioannides* for the appellant.

*F. Markides* for the respondent.

Judgment was delivered by :

HALLINAN, C.J. : In this case the respondent, the landlord, leased premises to a certain Trehandiris in 1942, and in 1943 Trehandiris became a statutory tenant. He lawfully made a number of sub-lettings and he made a sub-letting to the appellant in 1949. The tenant Trehandiris fell into arrears of rent and in October, 1952, by consent, it was ordered that possession should be given to the landlord. This order was suspended until April, 1953, and on the 16th March, 1953, Trehandiris vacated the premises. It is clear that Trehandiris not only admitted the landlord's right to recover possession but that the grounds for the order were arrears of rent ; so that that order made by consent was perfectly valid under the authority of a passage cited us in the case of *Middleton v. Baldock*, 1950 1, All E.R., 708, at page 710. The sub-tenant, the appellant in this case, remained on in possession and these proceedings were brought against him by the landlord ; the case was finally determined on the 29th March of this year when the Court ordered possession as against the appellant.

The grounds for that decision, quite shortly, were that when the head lease was terminated in March or April, 1953, the sub-tenancy automatically, under common law, terminated also ; the appellant was therefore a trespasser and was not entitled to the protection of the Law (then Cap. 108) as a statutory tenant or sub-tenant.

The first and principal point argued for the appellant is that the consent order and the subsequent vacation of the premises by Trehandiris did not terminate the appellant's statutory sub-tenancy, and Mr. Ioannides has pointed out that in the Law which then applied, Cap. 108, the expression "tenant" included "sub-tenant" and that therefore section 8 of that law which restricts the power of the Court to order ejectment, protected the appellant. It is conceded that the effect of section 8 (3) of Cap. 108 is that the terms of the contractual tenancy are imported into the statutory tenancy, and that the tenant had the right to sublet ; but not only the terms of the contractual tenancy, but also the common law of landlord and tenant applies unless expressly or impliedly excluded by statute. Now at common law, if a head lease is terminated, the sub-lease goes with it. In the English Act of 1920 the application of the common law was expressly excluded by the operation of section 5 (5) and

1954  
June 8

LOUKIS  
KYTHREOTIS  
v.  
IOANNIS  
KOLAKIDES.

15 (3) of that Act. So that in England where the statutory tenancy was terminated it did not terminate the sub-tenancies, and the sub-tenants, under section 15 (3), became tenants of the landlords. I may mention that in the Act of 1920 the term "tenant" included "sub-tenant", nevertheless the legislature considered it necessary, in order to exclude the common law, to enact the provisions of section 5 (5) and section 15 (3). Megarry, 6th Edition, p. 343, in a note 7 states:

"The insertion of a special provision is a strong indication that, but for them, the general provision of the Acts would not protect the sub-tenant".

We have looked into the authorities cited by Megarry in his note and we find that his proposition is amply supported by such distinguished judges as Lord Asquith, Scrutton, L.J. and Evershed, M.R. The trial Court rightly relied on the dictum of Evershed, M.R. in *Dudley & District Benefit Building Society v. Emerson and another* (1949) Ch. 707 C.A. The fact that no provisions similar to section 5 (5) and section 15 (3) of the English Acts, 1920, were inserted in our Cap. 108 raises a strong inference that the legislature did not intend to exclude the common law. Moreover, the second proviso to section 8 (1) (c) of Cap. 108 indicates that where an order or judgment is made under section 8 against the tenant the interests of the sub-tenant go unless expressly saved. The proviso is as follows:

"The Court may direct that any judgment or order given or made under this paragraph shall not affect any tenancy lawfully subsisting before the proceedings for ejection were instituted".

In our view, the trial Court was right in holding that the consent order made in 1952 and the subsequent evacuation of the premises by Trehandiris terminated the sub-tenancy of the appellant and he thereupon became a trespasser.

The second point taken on the appeal is that the new Rent Control Law, No. 13 of 1954, which was in force when the trial Court gave its decision, is retrospective and applies to this case. Section 24 of the new Law contains provisions similar to sections 5 (5) and 15 (3) of the English Act, 1920. If the appellant was a sub-tenant of the respondent at the time when the trial Court gave its decision then undoubtedly section 24 would apply; but the trial Court found rightly that the appellant was not a sub-tenant but a trespasser, and therefore both section 18 of the new Law, which restricts the power of the Court to grant ejection, and section 24, have no application to this case.

*For these reasons we consider that the determination of the trial Court was correct, and this appeal must be dismissed with costs.*