

1966
April 19, 20
June 30

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JOSEPH
HADJILOUKAS

v
THE BOARD FOR
REGISTRATION
OF ARCHITECTS
& CIVIL
ENGINEERS

[ZLKIA, P. VASSILIADES, MUNIR, JOSEPHIDES, JJ]

JOSEPH HADJILOUKAS,

Appellant-Applicant,

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THE BOARD FOR REGISTRATION
OF ARCHITECTS AND CIVIL ENGINEERS,

Respondent

(Revisional Jurisdiction Appeal No 7)

Architects and Civil Engineers—Constitution of Cyprus—Constitutionality of sections 7 and 9 of the Architects and Civil Engineers Law, 1962 (Law 41 of 1962)—‘Architect’ and ‘Architect by profession’ sections 7 and 9(1)(A) of the Law—Designation ‘Architect by profession’ not unconstitutional—Not contravening Articles 25 2 and 28 of the Constitution—Sections 7 and 9 of the Law constitutional—Judgment in The Board for Registration of Architects and Civil Engineers v Kyriakides, reported in this Part at p 640 ante followed

Constitutional Law—Constitution of Cyprus Articles 25 2 and 28—Sections 7 and 9 of the Architects and Civil Engineers Law 1962 (Law 41 of 1962) not unconstitutional

The head-note in this appeal should be read together with the head-note in appeal No 9 (Reported in this Part at p 640 ante)

Apart from its legal aspect turning on the constitutionality of sections 7 and 9 of the Architects and Civil Engineers Law 1962 (Law 41/62) which was decided in the judgment of this Court in Appeal No 9 (*supra*) this appeal presented its own particular facts and merits

Applicant who has been refused a permit by the respondent Board to become or to be registered as “architect” within the provisions of s 7 of Law 41 of 1962 filed a recourse directed against such refusal. Pending the recourse he was granted by the Board, at his request, registration and a licence under s 9(1)(A) of the Law as an “Architect by profession”. It was his contention that such a description

amounts to "unconstitutionality" as it reflects upon him a distinction from the description of "Architect" to which he maintained that he was entitled, after some 30 years of practice in that profession in Cyprus, since 1932.

On this issue the learned Judge of the Court below held that describing a person licensed under paragraph A (of section 9) as an architect by profession, is a reasonable differentiation in view of the difference in qualifications between such a person and a person registered under s. 7. And that the particular designation *viz.* "architect by profession", imports a reasonable differentiation and a substantially accurate one too, and it does not contravene at all Article 28 of the Constitution, because it is a reasonable distinction due to the intrinsic nature of things (*Mikrommatis and the Republic*, 2 R.S.C.C. 125).

Hence the present appeal. There has been filed also a cross-appeal by the respondent Board against such part of the decision of the court below regarding the constitutional validity of sections 7 and 9 of the Architects and Civil Engineers Law, 1962.

Held, (I). On the appeal :

As stated in the relative part of the Judgment in *Kyriakides case* (Revisional Jurisdiction Appeal No. 9) (reported in this part at p.640 *ante*) we are in complete agreement with this part of the Judgment of the learned trial Judge : and therefore the appeal of the applicant in this recourse, who has already been granted a licence to practise as an "Architect by profession" and has in fact, been doing so for a considerable time now, must fail.

Held, (II). On the Cross-appeal :

Following *Kyriakides case (supra)* and for the reasons given in the Judgment therein just read the cross-appeal of the Board regarding the constitutional validity of sections 7 and 9 of the Architects and Civil Engineers Law, 1962, for the purposes of the present recourse, succeeds.

Appeal dismissed. Cross-appeal allowed.

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Cases referred to :

Board for Registration of Architects and Civil Engineers v. Christodoulos Kyriakides (reported in this Part at p. 640 ante) ;

Mikrommatis and The Republic, 2 R.S.C.C. 125.

Appeal and cross-appeal.

Appeal by Applicant and cross-appeal by the Respondent against the judgment of a Judge of the Supreme Court of Cyprus (Triantafyllides, J.) given on the 11th December, 1965, (Revisional Jurisdiction Case No. 231/63) on certain legal issues raised in a recourse against the decision of the Respondent refusing to grant Applicant (Appellant) a permit to be registered as an "Architect" within the provisions of s.7 of the Architects and Civil Engineers Law 41 of 1962.

A. *Triantafyllides*, for the Appellant.

L. *Demetriades*, for the Respondent.

The Attorney-General of the Republic, Criton Tornaritis, with L. Loucaides, Counsel of the Republic, as amici curiae.

Cur. adv. vult.

The Judgment of the Court was delivered by:—

VASSILIADES, J.: This appeal turns mainly on the same questions of law which have been decided in Revisional Appeal No. 9 (*The Board for Registration of Architects and Civil Engineers v. Christodoulos Kyriakides*)* wherein Judgment has just been delivered. The legal aspect of the case, turning on the constitutionality of Sections 7 and 9 of the Architects and Civil Engineers Law, is thoroughly discussed and decided in the elaborate decisions of the learned trial Judge in that recourse, pronounced on April 14, 1965 and December 11, 1965:** and in the Judgment of this Court in Revisional Appeal No. 9 (*supra*). There is nothing which can be usefully added, we think, on the legal aspect of this appeal, where the same questions of law arise.

*Reported ante, at p. 640.

**Decisions reported in (1965) 3 C.L.R. at pp. 151 and 617 respectively, under the name "*Kyriakides and The Council for Registration of Architects and Civil Engineers*".

The present appeal, however, has to be decided on its own particular facts and merits.

The remedy sought by the Applicant in the recourse is for "a declaration that the act or decision of the Board for Registration of Architects and Civil Engineers, dated 26.10.63, whereby they have refused to grant to the Applicant a permit to become or to be registered as an 'Architect' within the provisions of Section 7 of Law 41 of 1962, is null and void and of no effect". Pending the recourse, the Applicant was granted by the Board, at his request, registration and a licence under section 9(1)(A), of the statute as an "Architect by profession", which description, the Applicant contends, amounts to "unconstitutionality" as it reflects upon him a distinction from the description of "architect" to which he maintains that he is entitled, after some 30 years of practice in that profession in Cyprus, since 1932.

The learned trial Judge deals carefully and exhaustively with that matter, and reaches the conclusion that "describing a person licensed under paragraph A (of section 9) as an architect by profession, is a reasonable differentiation in view of the difference in qualifications between such a person and a person registered under section 7". (Page 10 of the Judgment, at page 71, H, of the record). And a little further down in the next page (72,D.), he says that "the particular designation viz. architect by profession, imports a reasonable differentiation and a substantially accurate one too, and it does not contravene at all Article 28 of the Constitution, because it is a reasonable distinction due to the intrinsic nature of things (*Mikrommatis and The Republic*, 2 R.S.C.C. page 125). Moreover, such designation comes within the ambit of paragraph 2 of Article 25. It was reasonably open to the legislative authority to regard the differentiation in style between registered architects and civil engineers on the one hand, and architects by profession on the other, as a necessary restriction in the interests, inter alia, of public safety and public interest jointly and, in the circumstances, I am not entitled or prepared to interfere with the legislative discretion as exercised in this respect". (Page 72 D-H of the record).

As stated in the relative part of the Judgment in *Kyriakides case* (Revisional Jurisdiction Appeal No.9—*supra*) we are in complete agreement with this part of the Judgment of the

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learned trial Judge; and therefore the appeal of the applicant in this recourse, who has already been granted a licence to practise as an "Architect by profession" and has, in fact, been doing so for a considerable time now, must fail.

Following *Kyriakides* case (supra) and for the reasons given in the Judgment therein just read (Revisional Jurisdiction Appeal No. 9) the cross-appeal of the Board regarding the constitutional validity of sections 7 and 9 of the Architects and Civil Engineers Law 1962, for the purposes of the present recourse, succeeds. In the circumstances there being no other matter for decision in this case (No.231/63) we think we can dispose finally of the matter, dismissing the recourse.

There will be judgment and order accordingly. With no order for costs.

Appeal dismissed. Cross-appeal allowed. No order as to costs.