

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

DEMETRIOS PAPADEMETRIOU,

Appellant.

v.

THE BOARD FOR REGISTRATION
OF ARCHITECTS AND CIVIL ENGINEERS,

Respondent.

(*Revisional Jurisdiction Appeal No. 8*).

1966
April 19, 20,
June 30

DEMETRIOS
PAPADEMETRIOU
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*Constitutional Law—Articles 6, 25 and 28 of the Constitution—
The Architects and Civil Engineers Law, 1962 (Law No. 41
of 1962), sections 7 and 9—Not contrary to or inconsistent
with, the Constitution Articles 6, 25 and 28—Judgment in
The Board for Registration of Architects and Civil Engineers
v. Kyriakides, reported in this volume at p. 640 ante, followed.*

*Architects and Civil Engineers—The Architects and Civil Engineers
Law, 1962, sections 7 and 9—Constitutionality thereof—See
under Constitutional Law above.*

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. 92/64) on certain legal issues raised in a recourse against the refusal of the Respondent Board to register Applicant as an architect or civil engineer.

A. Triantafyllides, for the Appellant.

Lellos 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 is an appeal under section 11(2) of the Administration of Justice (Miscellaneous Provisions) Law, 1964, (No. 33 of 1964), from the decision* of one of

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the Judges of this Court, on certain legal issues raised in a recourse which was being heard before the learned Judge in the exercise of the revisional jurisdiction of the Court, under Article 146 of the Constitution.

The recourse (Case No.92/64) was against the decision of a statutory body, the Board for Registration of Architects and Civil Engineers, who exercising their powers under the relative statute (The Architects and Civil Engineers Law 1962. No.41 of 1962) refused, on the 20th July, 1964, a request to register the Applicant as architect or civil engineer, under the provisions of section 7(1) or (2) of the statute.

By his recourse, filed on July 28, 1964, the Applicant sought relief in the form of a judicial declaration, that the decision of the Board in question is null and void and of no effect whatsoever, for a number of reasons, including the contention that the restrictions imposed by section 7, under which the Applicant was refused registration, are unconstitutional, as offending against the Constitution. In effect the constitutionality of the whole statute was challenged under Article 6, providing against discrimination; under Article 28, providing for equality before the law; and Article 25 protecting the right to practise any profession or carry on any occupation, trade or business.

The facts alleged by the Applicant in support of his claim for registration, as set out in his application, are that he "graduated the Bennet College, Athens in 1936, and has also obtained by correspondence diplomas from the British Institute Civil Engineering Chambers School, London; Associate Membership National Institute of Engineers, London; American School of Architecture. He contributed articles to the press, and was several times entrusted with important government jobs. He had been practising the profession of an architect since 1936".

The recourse was opposed by the Board mainly on the ground that the Applicant did not qualify for registration under section 7 of the statute, the validity of which, under the Constitution, was positively asserted.

For the sake of convenience and to avoid costs, the recourse was being heard together with eleven other cases of similar nature. One of them was No. 218/63 (*Kyriakides v. The Board for the Registration of Architects and Civil Engineers*)

where extensive argument was heard on the legal issues; and two decisions* were, in due course, reached and pronounced by the trial Judge clearing the ground on the legal aspect of all these recourses.

The first, was an interim decision, pronounced on April 14, 1965, which disposed of several points of law raised in all these cases. It decided that "the setting up of the Board after the period laid down in section 3(2) was not an invalid act" as contended on behalf of the applicant. (Vide Record at p. 30, I-J; and p. 33, D). The same interim decision also disposed of the objections taken on rules of natural justice. For the reasons elaborately stated by the learned Judge in his decision "the rule of natural justice relied on, could not be said to be either involved or to have been infringed". (At p. 33, J-K).

After dealing with these preliminary points, the Judge went on to consider in his said interim decision, "the constitutionality of the provisions in question of "Law 41/62 which are sections 7 and 9, as amended by Law 7/64". (Record at p. 35, A). By a most careful and convincing reasoning, if we may say so with all respect, the learned Judge cleared the objections based on different other parts of the Constitution, and concluded that the "examination, therefore, concerning the constitutionality of sections 7 and 9 of the Law, must be limited, in these proceedings, within the context of Article 25". (Record at p. 38, I-J).

Argument was then heard from learned counsel representing all parties concerned, on the main issue of the constitutionality of the statutory provision in question, rested on Article 25.

By a decision in the proceedings affecting all the cases in question, pronounced on 11.12.1965** (embodying also the interim decision of the 14.4.1965*** described above) the learned Judge dealt with equal thoroughness, we would unhesitatingly say, with the main legal issue as set out above.

I do not propose discussing here the reasons which led our brother Judge to his conclusion regarding the constitu-

*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*".

**Reported in (1965) 3 C.L.R. 617.

***Reported in (1965) 3 C.L.R. 151.

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tional validity of section 7, with which the Court agree. Especially when this matter is dealt with in more detail in the Judgment just delivered in the *Kyriakides* case (Rev. App. No. 9)*. It is sufficient to state the result in the Judge's own words which read: "On the basis of the material before me, I do find that the academic qualifications specified therein are qualifications of the standard usually required for the professions in question, and, therefore, section 7, is a provision within the ambit of paragraph 2 of Article 25, in this respect". (Record at p. 68, H-1).

"Viewed in that light—the learned Judge proceeds further down in his judgment (at p. 70, A-D)—I am of opinion, that the provisions concerned can properly be regarded as being within both Article 25(2) and Article 28, because they do ensure that any academic qualification actually of the standard usually required for the professions in question will, without discrimination, be eventually declared equivalent to the qualifications expressly specified in section 7, which as I have held already are of the said usually required standard".

The Court, as I have already said, agree with this conclusion.

The learned Judge proceeded to deal, very carefully and extensively, with the constitutionality of section 9; "or rather—as he puts it—(p. 71, A) the constitutionality of such parts of paragraphs (A) and (B) (a) of sub-section (1) of such section, which are involved in the proceedings". His conclusion in this connection, appears further down in his decision (at p. 79, I) where he declared sub-paragraph (iii) of section 9(1)(A) of Law 41/62 to be unconstitutional and of no effect for the purposes of the proceedings before him. And likewise, and for the same reasons, he found and declared as unconstitutional sub-paragraph (iii) of paragraph B (a) of sub-section (1) of section 9. (Vide p. 80, I-K).

Against this decision, which, it must be remembered only disposes of certain legal issues raised in these recourses, (and does not finally purport to deal with or dispose of the recourses on their respective merits) both sides concerned, have taken the present appeal.

*Reported *ante*, at page 640.

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The Applicant in the recourse seeks to attack the decision in its full extent contending that both sections 7 and 9 of the Law, are unconstitutional. The statutory body whose decision is challenged by the recourse (the Board in question) attacks in the appeal the part of the decision which declared as unconstitutional the provisions of section 9 set out above.

In addition to elaborate and able argument from learned counsel on both sides, the Court had the advantage of hearing the learned Attorney-General of the Republic whom we invited to address the Court on the issues of constitutionality of the statute in question raised in the appeal and cross-appeal before us.

Besides expressing the Court's full appreciation for the assistance received from all learned and able counsel who addressed us, I do not propose dealing here with any part of their submissions which have been considered and discussed by Mr. Justice Josephides in the judgment just delivered in *Kyriakides' case* (Rev. Appeal No. 9).*

Following as we do, in this case, the judgment in *Kyriakides' case* for the same reasons as those stated therein, we arrive at the same result. We allow the cross-appeal of the Board; and we dismiss the appeal. The attack on the validity under the Constitution, of section 7 and 9 of the Architects and Civil Engineers Law in their form at the material time, fails for the purposes of this recourse. The record shall now be returned to the learned Judge who has been dealing with the matter so far, for further consideration and decision on the merits, if the Applicant still thinks that his remedy lies in these proceedings; and not in establishing, in due course, that his numerous and various qualifications as described in his application are "of a standard equivalent to those" provided in the statute, or those declared as such, by the appropriate authority.

There will be Judgment in this appeal (Revisional Appeal No. 8) and orders accordingly. With no order as to costs in the appeal.

Appeal dismissed.

Cross-appeal allowed.

No order as to costs in the appeal.

*Reported *ante*, at page 640.