IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

IOANNIS M. ZAVROS,

Applicant,

and

THE COUNCIL FOR REGISTRATION OF ARCHITECTS AND CIVIL ENGINEERS,

Respondent.

(*Case No.* 157/65).

Architects and Civil Engineers—The Architects and Civil Engineers Law, 1962 (*Law No.* 41 *of* 1962) *section* 9(1)(*A*)*—Decision of the Respondent Council whereby they have refused to grant Applicant a licence to become an Architect by Profession—Decision not duly reasoned—Annulled.*

Administrative Law—Administrative decisions—Rule requiring due reasoning of administrative decisions—Object of the rule and propositions following therefrom—Reasons must be stated clearly and unambiguously; they must be read in the sense in which reasonable persons affected thereby would understand them; reasons must not be stated in terms not fulfilling the object of the rule—Mere repetition, either in a negative form or otherwise of the text of the enactment concerned, not enough to support the decision—Mere fact that some doubt, however little, so long as it is not merely fanciful, is possible as to the meaning of the reason concerned is sufficient to vitiate it.

Administrative decisions—Need for due reasoning—Principles—Object of the rule—Propositions following therefrom—See above.

Reasons—Rule requiring due reasoning of administrative decisions—See above.

Reasoned administrative decisions—Principles applicable—See above.

In this recourse under Article 146 of the Constitution the Applicant seeks the annulment of the decision of the Respondent Council whereby they refused to grant him under section 9(1)(A) of the Architects and Civil Engineers Law, 1962 (Law No. 41

of 1962) "a licence to become an architect by profession". The decision in question was conveyed to the Applicant by a letter dated June 24, 1965 (*exhibit* 1) which so far as relevant reads:–

> " With reference to your application dated March 25, 1965, whereby you ask for the issue of a licence as a licensed architect by profession, I have been instructed by the Council to inform you that it has decided that it cannot approve your application because the Council has not been satisfied (a) that you possess sufficient knowledge of the work of an architect or civil engineer (b) that at the time of the coming into operation of the Law you were not exercising in good faith and personally in the Republic the profession of architect or civil engineer, and (c) that the capacity which you had in the service of Nicosia Corporation was actually (ἐν τ' αὐτῷ) an exercise of the profession of architect or civil engineer".

It was argued on behalf of the Applicant that the said decision must be annulled on the broad ground that it was not duly or sufficiently reasoned.

Section 9(1) of the aforesaid Law No. 41 of 1962 so far as relevant reads:–

> "Notwithstanding anything in this Law contained, every person who is a citizen of the Republic may, on application to the Council in the prescribed form and on payment of the lawful fee, have a licence granted to him to become:
>
> (A) An architect by profession—if the Council is satisfied that he is of good character and that –
>
> (i) He possesses sufficient knowledge of the work of an architect or civil engineer and
>
> (ii) at the date of the coming into operation of this Part of this Law he was exercising in good faith and personally in the Republic the profession of architect or civil engineer, or in some responsible capacity was employed by a person entitled to be registered as an architect or civil engineer, or in the service of the Government or other public body or authority; and
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> (iii) he was so working for at least seven years prior to the coming into operation of this Law."

Annulling the decision complained of the Court:-

Held, (1). It is evident that the whole object of the rule requiring reasons to be given for administrative decisions is to enable in the first instance the persons concerned, and the Court on review, to ascertain in each case whether the decision is well founded in fact and in law; and from this three propositions follow: (1) the reasons must be stated clearly and unambiguously; (2) they must be read in the sense in which reasonable persons affected thereby would understand them; (3) the decisions cannot be supported by reasons stated in terms not fulfilling the object of the rule. Mere repetition in a negative form or otherwise of the text of the enactment concerned is not sufficient (cp. Conclusions from the Jurisprudence of the Greek Council of State 1929-1959 p. 183 first paragraph; *Kasapis and The Council for Registration of Architects and Civil Engineers* (1967) 3 C.L.R. 270 at pp. 275-6 per Triantafyllides, J.; *PEO and The Board of Cinematograph Films Censors* (1965) 3 C.L.R. 27; *Constantinides and The Republic* (1967) 3 C.L.R. 7).

(2) *As to reason (a) in Exhibit* 1, supra: On its wording it is not quite clear what it means. Did the non-satisfaction relate to both fields of knowledge or to one only? This ambiguity is important, because, if the latter is the case, the reason is based on a misconception of sub-paragraph (i) of section 9(1)(A) of the said Law (*supra*) which must vitiate it; for the requirement of that sub-paragraph is met by sufficient knowledge of *either* the work of an architect *or* that of a civil engineer. Admittedly the likelihood is that the non-satisfaction relates to both fields of knowledge. But in accordance with the principles of administrative law (*supra*) the mere fact that some doubt, however little, so long as it is not merely fanciful, is possible as to the meaning of the particular reason is sufficient to vitiate it.

(3) *As to reason (b) in Exhibit* 1 *supra:* Counsel for the Respondents argued that this reason "in effect means that at the time of commencement of the Law the Applicant was not exercising 'the profession of architect or civil engineer' ". That however disregards the fact that in the earlier part of the aforesaid sub-paragraph (ii) (*supra*), on which, obviously, it purports to be based, there are the words "in good faith and personally"; and having regard to those words the reason amounts to what in pleading is known as "a negative pregnant",

which surely is no good in administrative law any more than it is in pleading in an action.

(4) *As to reason* (c) *in Exhibit* 1 *supra:* The question is, not what the administration meant by, but what is said, in *Exhibit* 1; and the reason in question must be construed without reference to the opposition of the Respondents to the Applicant's recourse. Reading it in the sense in which it must be read, that reason is based on the view that the employment referred to in sub-paragraph (ii) of section 9(1)(A) of the Law (*supra*) must be such as to constitute "an exercise of the profession of architect or civil engineer", which is wrong for in fact such employment is allowed as an *alternative* to "exercise" of either of those professions.

Sub judice decision annulled; Order for £15 costs in favour of Applicant.

Cases referred to:

Kasapis v. *The Council for Registration of Architects and Civil Engineers* (1967) 3 C.L.R. 270 at pp. 275–6 per Triantafyllides, J. *applied;*

PEO v. *The Board of Cinematograph Censors* (1965) 3 C.L.R. 27;

Constantinides and The Republic (1967) 3 C.L.R. 7.

Recourse.

Recourse against the decision of the Respondent Council refusing to grant Applicant a licence to become an "Architect by profession" under s. 9(1)(A) of the Architects and Civil Engineers Law, 1962.

G. Platritis, for the Applicant.

L. Demetriades, for the Respondent.

Cur. adv. vult.

The following judgment was delivered by:–

STAVRINIDES, J.: In this application for annulment of a decision of the Respondent whereby they refused to grant the Applicant under s. 9(1)(A) of the Architects and Civil

Engineers Law, 1962, "a licence to become an architect by profession", counsel on both sides argued only a point raised at the hearing by Mr. Platritis for the Applicant as to whether that decision was duly reasoned and then, at Mr. Platritis's request, Mr. Demetriades for the Respondents not objecting, that the Court should decide that point before any other matter was gone into, I agreed to do so and reserved my judgment thereon.

The decision in question was conveyed to the Applicant by a letter dated June 24, 1965 (*exhibit* 1), which, so far as relevant, reads

> " With reference to your application dated March 25, 1965, whereby you ask for the issue of a licence as a licensed architect by profession, I have been instructed by the Council to inform you that it has decided that it cannot approve your application because the Council has not been satisfied (a) that you possess sufficient knowledge of the work of an architect or civil engineer, (b) that at the time of the coming into operation of the Law you were exercising in good faith and personally in the Republic the profession of architect or civil engineer and (c) that the capacity which you had in the service of Nicosia Corporation was actually (ἐν τ' αὐτῷ) an exercise of the profession of architect or civil engineer";

and Mr. Platritis argued that it must be annulled because reasons (a) and (b) are not sufficiently specific, while reason (c) is misconceived.

Section 9(1) of the Law, so far as relevant, reads:

> " Notwithstanding anything in this Law contained, every person who is a citizen of the Republic may, on application to the Council in the prescribed form and on payment of the lawful fee, have a licence granted to him to become:
>
> (A) An architect by profession—if the Council is satisfied that he is of good character and that—
>
> (i) he possesses sufficient knowledge of the work of an architect or civil engineer and
>
> (ii) at the date of the coming into operation of this Part of this Law he was exercising in good faith and personally in the Republic the profession of

architect or civil engineer, or in some responsible capacity was employed by a person entitled to be registered as an architect or civil engineer, or in the service of the Government or other public body or authority; and

(iii) he was so working for at least seven years prior to the coming into operation of this Law."

It is evident that the whole object of the rule requiring reasons to be given for administrative decisions is to enable in the first instance the persons concerned, and the Court on review, to ascertain in each case whether the decision is well founded in fact and in Law (cp. Porismata Nomologhias, p. 183, first paragraph); and from this three propositions follow: (1) the reasons must be stated clearly and unambiguously; (2) they must be read in the sense in which reasonable persons affected thereby would understand them; (3) a decision cannot be supported by reasons stated in terms not fulfilling the object of the rule.

I now proceed to consider, in the light of the foregoing, each of the reasons given in *exhibit* 1, following the most convenient order, which, as it happens, is the reverse of that in which they appear in that document.

Mr. Demetriades said of reason (c) that, "viewed together with the opposition, it means that the Applicant did not work 'in a responsible capacity' ", adding "In any case this is what the Respondent meant; and this explanation, even though offered for the first time today, effectively supports the decision, although there may be a question regarding costs". Having regard to proposition (2) above, the question is, not what the administration meant by, but what it said in, *exhibit* 1; and the reason in question must be construed without reference to the opposition. Reading it in the sense in which it must be read, that reason is based on the view that the employment referred to in sub-para. (ii) of s. 9(1)(A) must be such as to constitute "an exercise of the profession of architect or civil engineer", which is wrong, for in fact such employment is allowed as an *alternative* to "exercise" of either of those professions.

Of reason (b) Mr. Demetriades said that "in effect it means that at the time of commencement of the Law the Applicant was not exercising 'the profession of architect or civil

engineer' ". That, however, disregards the fact that in the earlier part of sub-para. (ii), on which, obviously, it purports to be based, there are the words "in good faith and personally"; and having regard to those words the reason amounts to what in pleading is known as "a negative pregnant", which surely is no good in administrative law any more than it is in pleading in an action. Referring to reasons given by the present Respondent to another Applicant for a licence under the 1962 Law, Triantafyllides, J., said (*Kasapis* v. *Council for Registration of Architects and Civil Engineers* (1967) 3 C.L.R. 270 at pp. 275–6).

> " The reasons given by the Respondent in its minutes of March 23, 1966..... for rejecting the application for a licence of an 'architect by profession', are that the Respondent had not been convinced that the Applicant at the date of the coming into operation of the relevant Law was bona fide engaged, in the Republic, as a principal in the practice of the profession of an architect or civil engineer or in a responsible capacity under a person entitled to be registered as an architect or civil engineer or in the service of the Government or other public body or authority. The same reasons were repeated in the letter written to Applicant on April 13, 1966, informing him of the Respondent's decision .....
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> Thus the Respondent, in lieu of any other reasoning for its *sub judice* decision, was content to set out, only, in a negative form, the alternative enumerated in para. (ii) of s. 9(1)(A) of Law 41 of 1962; nothing more specific to the particular case has been stated.
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> The need for due reasons to be given for administrative decisions—especially when taken by collective organs and being unfavourable to a citizen—has been stressed consistently by this Court in the past (see, *inter alia*, *PEO* v. *Board of Cinematograph Films Censors* (1965) 3 C.L.R. 27; *Constantinides* v. *Republic* (1967) 3 C.L.R. 7) and it is not necessary to dwell on the matter at any length once again.
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> I am of the opinion that the reasons given by the Respondent for its *sub judice* decision are not what could be called due reasons in administrative Law on an occasion such as the present one; they do fall short of the

necessary minimum standard in view, *inter alia*, of the following:"

From the foregoing it follows that neither of reasons (b) and (c) can support the subject decision.

I now come to reason (a). On its wording it is not quite clear what it means. Did the non-satisfaction relate to *both* fields of knowledge or to *one* only? This ambiguity is important, because, if the latter is the case, the reason is based on a misconception of sub-para. (i) of s. 9(1)(A) which must vitiate it; for the requirement of that sub-paragraph is met by sufficient knowledge of *either* the work of an architect *or* that of a civil engineer. Admittedly the likelihood is that the non-satisfaction relates to both fields of knowledge. But in accordance with principle (1) above, the mere fact that some doubt, however little, so long as it is not merely fanciful, is possible as to the meaning of the reason is sufficient to vitiate it; and rightly so: For if I were to go by the probable meaning of the reason and in fact the Respondent had taken the wrong view of the sub-para. in question, the result would be to deprive the Applicant wrongly of a right to have his case for a licence under the 1962 Law considered by the Respondent on the proper legal basis; whereas if the subject decision is annulled and the Applicant does not possess sufficient knowledge in either field the Respondent will be able effectively to do their duty of refusing him a licence by giving him a properly expressed reason or reasons.

For these reasons the subject decision is annulled. The Respondent to pay the Applicant £15 costs.

Sub judice decision annulled; order for costs as above.