

1978 March 7

[STAVRINIDES, L. LOIZOU, A. LOIZOU, JJ.]

NICOS ANDREOU,

Appellant (Applicant),

v.

ANASTASSIA CHRISTODOULOU,

Respondent.

(Civil Appeal No. 5764).

Rent Control Law, 1975 (Law 36/75)—“Reasonably required for possession by the owner”—In section 16 (1) (g) of the Law—The need must be definite and immediate.

The appellant applied for recovery of possession on the ground that the house was reasonably required for possession and use by his daughter, who was over 18 years of age. This ground was purportedly based on s. 16 (1) (g)* of the Rent Control Law, 1975 (Law 36/75). In support of appellant’s claim there was evidence to the effect that a marriage proposal had been made to his daughter “but he had difficulties because the bridegroom made demands”.

The trial Court dismissed the application on the ground that appellant’s daughter was still unmarried and she had no concrete or proved immediate need to reside in a house other than the paternal one.

Upon appeal:

Held, the conclusion of the trial Court that the case was not within the provisions of the said section 16 (1) (g) of the Law, because the need relied upon was not a “definite and immediate one” is based on a fair view of the evidence and a correct construction of the Law. The appeal will, accordingly, be dismissed.

Appeal dismissed with costs.

* Quoted at. p. 193 *post*.

Appeal.

Appeal by applicant against the judgment of the District Court of Nicosia (Papadopoulos, S.D.J.) dated the 9th November, 1977 (Application No. 410/76) whereby his claim for recovery of possession of a house was dismissed.

A. Eftychiou, for the appellant.

E. Vrahimi (Mrs.), for the respondent.

The judgment of the Court was delivered by:

STAVRINIDES J.: This is an appeal from the judgment of the District Court of Nicosia whereby the appellant's claim for recovery of possession of a house was dismissed. The claim was based on the ground that the house "was reasonably required for possession and use by (the appellant's) daughter, who is over 18 years of age". This ground is purportedly based on s. 16 (1) (g) of the Rent Control Law, 1975, which provides that:

"No judgment or order for the recovery of possession of any dwelling-house or shop to which this Law applies, or for the ejection of a tenant therefrom, shall be made or given unless:

.....

(g) The dwelling-house or shop is reasonably required for possession by the owner, his wife, son, daughter who are over 18 years of age and in any such case the Court considers it reasonable to give such judgment or make such order".

The evidence given in support of the appellant's claim was to the effect that "a marriage proposal had been made to his daughter", but "he had difficulties because the (prospective) bridegroom made demands". The learned trial Judge said: "I am of the opinion that since the (appellant's) daughter is still unmarried and she has no concrete or proved immediate need to reside in a house other than the paternal one" he could not make the required order.

The passage quoted might have been clearer, but as we understand it it means that, even assuming the appellant's evidence to be true, the case was not within the above provision, because

the need relied upon was not a “definite and immediate one”. In our view that is based on a fair view of the evidence and a correct construction of the Law. Accordingly the appeal fails.

Appeal dismissed with costs.