

1978 September 26

[TRIANTAFYLLIDES, P., L. LOIZOU, A. LOIZOU, DEMETRIADES, JJ.]

FRIXOS KYRIAKIDES,

Appellant.

v.

THE IMPROVEMENT BOARD OF AGLANDJA,

Respondent.

*(Revisional Jurisdiction Appeal
No. 189).*

Streets and Buildings Regulation Law, Cap. 96—Division of land into building sites—"Communication in the area" in section 8(c) of the Law—Concept of—Appropriate Authority empowered to take into account in relation to such concept the aspect of the access of the plot, in respect of which a division permit is being sought, to a public road. 5

Building sites—Division of land into building sites—Land in question not abutting a public road—Within the proper exercise of the discretionary powers of the respondents to refuse the division permit applied for—Section 8(c) of the Streets and Buildings Regulation Law, Cap. 96. 10

Statutes—Construction—Construction leading to unreasonable results should be avoided if it is possible to construe a provision in a manner leading to a reasonable and workable application of it—Construction of "communication in the area" in section 8(c) of the Streets and Buildings Regulation Law, Cap. 96. 15

The appellant was refused a permit for the division of a plot of land into building sites on the ground that the plot in question did not abut on a public road.

The refusal was based on section 8* of the Streets and Buildings Regulation Law, Cap. 96 which, so far as relevant, provides that before granting a permit the "appropriate authority may 20

* Quoted in full at pp. 88-89 *post*.

require the production of plans Particularly (a) (b) (c) with the general object of securing proper conditions of health, sanitation, safety, communication, amenity and convenience in the area in which the intended work is to be carried out.”

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Upon appeal against the first instance decision of a Judge of this Court, by means of which there was dismissed the recourse of the appellant against the above refusal, the appellant submitted that paragraph (c) of section 8 of Cap. 96 should be construed in such a way that the word “area” therein should be taken to mean only the property in relation to which a division permit is being sought, that is in the present instance, the plot of the appellant, and that, therefore, it is sufficient for the purposes of section 8 if by means of the roads to be constructed, when the plot is divided into building sites, there will be secured proper communication *within* the plot, without there being, also, necessary to secure communication of the new building sites with a road *outside* the plot which is to be divided into such sites.

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Held, (1) that this is not a case where any doubt as regards the effect of an enactment involving interference with a fundamental human right, such as the right to property, has to be resolved in favour of the citizen, but it is a case where both the trial Judge and this Court, on appeal, are faced with a proposed construction of a statutory provision which would lead to unreasonable results, when it is clearly possible to construe such provision, without entertaining any doubt at all, in a manner leading to a reasonable and workable application of it (*inter alia*, *Fina (Cyprus) Ltd. v. The Republic*, 4 R.S.C.C. 26 distinguished).

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(2) That paragraph (c) of section 8 of Cap. 96 does empower the respondents to take into account in relation to the concept of “communication in the area” the aspect of the access of the plot, in respect of which a division permit is being sought, to a public road; that, therefore, it was within the proper exercise of the discretionary powers of the respondents to refuse the division permit applied for; and that, accordingly, the appeal will be dismissed.

Appeal dismissed.

Cases referred to:

Fina (Cyprus) Ltd. v. The Republic, 4 R.S.C.C. 26;

Marangos and Others v. The Municipal Committee of Famagusta
(1970) 3 C.L.R. 7;

Spyrou and Others (No. 2) v. The Republic (1973) 3 C.L.R. 627.

Appeal.

Appeal from the judgment of a Judge of the Supreme Court 5
(Malachtos, J.) given on the 21st July, 1977, whereby appellant's
recourse against the refusal of the respondents to grant to
appellant and his co-owners of a plot of land a permit for the
division of such plot into building sites was dismissed.

Appellant appeared in person. 10

A. Serghides, for the respondents.

TRIANTAFYLLIDES P. gave the following judgment of the Court.
This is an appeal against the first instance decision of a Judge
of this Court by means of which there was dismissed the re-
course of the appellant against the refusal of the respondents 15
to grant to him and his co-owners of a plot of land a permit
for the division of such plot into building sites.

The application for the said permit was made on April 18,
1975, and the refusal of the respondents was communicated to
the appellant by a letter dated December 13, 1975; it was stated 20
in that letter that the applied for permit could not be granted
as the plot in question did not abut on a public road.

It is common ground that in this matter the respondents
acted under section 8 of the Streets and Buildings Regulation
Law, Cap. 96, which, at the time, read as follows: 25

“ 8. Before granting a permit under section 3 of this Law,
the appropriate authority may require the production of
such plans, drawings and calculations or may require to
be given such description of the intended work as to it
may seem necessary and desirable and may require the 30
alteration of such plans, drawings and calculations so
produced, particularly –

- (a) with the object of securing proper conditions of
health and safety in connection with the building
to which such plans, drawings and calculations 35
relate;

- (b) with a view to preserving the uniform or proper character and style of buildings erected or to be erected in the area in which the plot is situated;
- 5 (c) with the general object of securing proper conditions of health, sanitation, safety, communication, amenity and convenience in the area in which the intended work is to be carried out."

The above section 8 was subsequently amended by the Streets and Buildings Regulation (Amendment) Law, 1978 (Law 24/78),
10 but this amendment is not material for the purposes of the present proceedings.

It is not in dispute that the plot of land in question does not abut on, nor does it have access to, a public road.

It has been the submission of the appellant that paragraph (c)
15 of section 8 Cap. 96 should be construed in such a way that the word 'area' therein should be taken to mean only the property in relation to which a division permit is being sought, that is, in the present instance, the plot of the appellant, and that, therefore, it is sufficient for the purposes of section 8 if by means of
20 the roads to be constructed, when the plot is divided into building sites, there will be secured proper communication *within* the plot, without there being, also, necessary to secure communication of the new building sites with a road *outside* the plot which is to be divided into such sites.

25 The learned trial Judge found that such a construction would lead to unreasonable results, and we are in full agreement with him:

This is not a case, such as those cited to us by the appellant, as, for example, *Fina (Cyprus) Ltd. v. The Republic*, 4 R.S.C.C.
30 26, *Marangos and others v. The Municipal Committee of Famagusta*, (1970) 3 C.L.R. 7, and *Spyrou and others (No. 2) v. The Republic*, (1973) 3 C.L.R. 627, where any doubt as regards the effect of an enactment involving interference with a fundamental human right, such as the right to property, has to be resolved in favour of the citizen, but it is a case where both the
35 trial Judge and we, on appeal, are faced with a proposed construction of a statutory provision which would lead to unreasonable results, when, in our view, it is clearly possible to con-

strue such provision, without entertaining any doubt at all, in a manner leading to a reasonable and workable application of it.

In our opinion paragraph (c) of section 8 of Cap. 96 does empower the appropriate authority, in this case the respondents, to take into account in relation to the concept of "communication ... in the area" the aspect of the access of the plot, in respect of which a division permit is being sought, to a public road. 5

We, therefore, find that it was within the proper exercise of the discretionary powers of the respondents to refuse the division permit applied for by the appellant. 10

This appeal is, therefore, dismissed; but, with no order as to its costs in view of the fact that the appellant, who is an advocate, has instituted the present proceedings in a bona fide attempt to clarify the exact meaning of the said section 8(c).

Appeal dismissed. No order as to costs. 15