

1983 September 24

[TRIANTAFYLIDIS, P.]

IN THE MATTER OF APPLICATION NO. 15/80 BY ANDREAS
PANOU LANITI LTD., FOR AN ORDER OF PROHIBITION.

and

IN THE MATTER OF AN APPLICATION BY ANDREAS
PANOU LANITI LTD., IN CIVIL APPEAL NO. 6611.

(Application in Civil Appeal No. 6611).

*Civil Procedure—Appeal—Stay of execution pending appeal—Rules
18 and 19 of Order 35 of the Civil Procedure Rules—Order grant-
ing leave to apply for an order of prohibition and order staying
any further action in relation to the matter subject matter of
5 the application—Dismissal of application for prohibition and
appeal against such dismissal—Outcome of the process, which
was set in motion by means of the application will be finalized only
when the appeal will be determined—Order that the above stay
of further action should continue to be operative until the deter-
10 mination of the appeal or until further order—Article 155.2
of the Constitution and section 11(1)(2) of the Administration
of Justice (Miscellaneous Provisions) Law, 1964 (Law 33/64).*

*Supreme Court—Original, revisional and appellate jurisdiction—
15 Article 155.2 of the Constitution and section 11(1)(2) of the
Administration of Justice (Miscellaneous Provisions) Law, 1964
(Law 33/64).*

In granting to the applicants leave to apply for an order of
prohibition, in respect of a decision of the Director of Lands
and Surveys under section 61 of Cap. 224, the Court made, also,
20 an order staying any further action on the part of the Director
in the matter. Eventually the Court dismissed* the application
which was filed pursuant to the above leave and the applicant
after filing an appeal against such dismissal applied ex parte
that the said order staying further action by the Director should
25 continue in force until the determination of the appeal or until
further order.

* See p. 820 in this part post.

On the ex parte application:

Held, that the appeal which has been made against the first instance judgment by which the application for prohibition was dismissed, is in reality, and particularly in view of the provisions of Article 155.2* of the Constitution and of section 11(1)(2)** 5
of the Administration of Justice (Miscellaneous Provisions) Law, 1964 (Law 33/64), a further, and the ultimate, stage of the process which was set in motion by the application for prohibition and the outcome of such process will be finalized only when the said Appeal is determined; that, therefore, it 10
is in the interests of justice to order that the stay ordered, when granting leave to applicant to apply for an order of prohibition, should continue to be operative until the determination of the appeal or until further order.

Application granted. 15

Cases referred to:

Republic v. Vassiliades (1967) 3 C.L.R. 82.

Ex parte application.

Ex parte application that the order made on 5.3.1980 staying further action on the part of the Director of Lands and Surveys in relation to a Notice which was given by him to the applicant under section 61 of the Immovable Property (Tenure, Registration and Valuation) Law, Cap. 224 should continue in force until the determination of Civil Appeal No. 6611 or until further order. 20
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A. Anastassiades, for the applicant.

TRIANTAFYLIDIS P. gave the following judgment. On 5th March 1980, in dealing with Application No. 14/80, I granted to the applicant company, Andreas Panou Laniti Ltd., of Limassol, leave to apply for an order of prohibition and, on doing so, I, also, made an order staying any further action on the part of the Director of Lands and Surveys in relation to a Notice which was given by him to the applicant under section 61 of the Immovable Property (Tenure, Registration and Valuation) Law, Cap. 224, and in respect of which the applicant was seeking an order of prohibition. 30
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The application for such order, which was filed pursuant

** Article 155.2 is quoted at p. 811 post.

*** Section 11(1)(2) is quoted at pp. 811-812 post.

to the leave which I granted as aforesaid, was Application No. 15/80, and I dismissed it by a judgment which I delivered on the 10th September 1983.

5 Against my said judgment the applicant company filed Civil Appeal No. 6611 and has applied today ex parte that the order which I made on the 5th March 1980, staying further action in the matter in question by the Director of Lands and Surveys, should continue in force until the determination of the appeal or until further order.

10 In view of the provisions of rules 18 and 19 of Order 35 of the Civil Procedure Rules I have dealt today with the aforementioned ex parte application by perusing and considering its contents and without having found it necessary to hear arguments in support of it on the part of counsel for the applicant.

15 In my opinion the Appeal No. 6611, which has been made against my first instance judgment by which Application No. 15/80 was dismissed, is in reality, and particularly in view of the provisions of Article 155.2 of the Constitution and of section 11(1)(2) of the Administration of Justice (Miscellaneous Provisions) Law, 1964 (Law 33/64), a further, and the ultimate,
20 stage of the process which was set in motion by Application No. 15/80 and the outcome of such process will be finalized only when the said Appeal is determined.

25 Paragraph (2) of Article 155 of the Constitution reads as follows:

“2. Subject to paragraphs 3 and 4 of this Article the High Court shall have such original and revisional jurisdiction as is provided by this Constitution or as may be provided by a law:

30 Provided that where original jurisdiction is so conferred, such jurisdiction shall, subject to Article 159, be exercised by such judge or judges of the High Court as the High Court shall determine:

35 Provided further that there shall be a right of appeal to the High Court from their decision.

Subsections (1) and (2) of section 11 of Law 33/64 read as follows:

“11. (1) Any jurisdiction, competence or powers vested

in the Court under section 9 shall, subject to subsections (2) and (3) and to any Rules of Court, be exercised by the Full Court.

(2) Any original jurisdiction vested in the Court under any law in force and any revisional jurisdiction, including jurisdiction on the adjudication of a recourse made against an act or omission of any organ, authority or person exercising executive or administrative authority as being contrary to the law in force or in excess or abuse of power, may be exercised, subject to any Rules of Court, by such Judge or Judges as the Court shall determine:

Provided that, subject to any Rules of Court, there shall be an appeal to the Court from his or their decision”.

Useful reference as regards the object and effect of the afore-quoted provisions of section 11 of Law 33/64 may be made to the case of *The Republic v. Vassiliades*, (1967) 3 C.L.R. 82.

In the light of the foregoing I have reached the conclusion that it is in the interests of justice to order that the stay ordered, as aforesaid, when in Application 14/80 leave was granted to file Application No. 15/80, should continue to be operative until the determination of Appeal No. 6611 or until further order; and that copies of the order which I have made today should be served on all the respondents in the said Appeal, who may show cause why it should not remain in force, if they wish to do so.

Order accordingly.