

1984 November 19

[L. LOIZOU, HADJIANASTASSIOU AND MALACHTOS, JJ.]

GEO. PAVLIDES & ARAOUZOS LTD.,

*Appellants-Plaintiffs.*

v.

ANDREAS PSALTIS,

*Respondent-Defendant.*

(Civil Appeal No. 5520).

*Hire Purchase, Credit Sale and Hiring of Property Control Law, 1966 (Law 32/66)—“Private motor-vehicles” in the First Schedule to the Order made under section 3 of the Law—Used in their popular sense and have the meaning attached to them in the common and ordinary use of the language—They do not include public service vehicles.*

*Words and phrases—“Private motor vehicles”.*

The sole issue that fell for determination in this appeal was the interpretation of the words “Ιδιωτικά Μηχανοκίνητα Οχήματα” (private motor-vehicles) occurring in the First Schedule to the Order of the Council of Ministers made under section 3 of the Hire Purchase, Credit Sale and Hiring of Property Control Law, 1966 (Law 32 of 1966).

The trial Judge came to the conclusion that the term “private motor-vehicle” related to the ownership and not to the use of the vehicle and this because of the natural meaning of the word “Ιδιωτικό” (private) which in the Greek Dictionary of Demetrakos is given as “Ο του ιδιώτου” and ruled that all vehicles, irrespective of the use for which they were licensed, which belonged to any person, business or company, as opposed to those which belonged to government, were private motor-vehicles within the meaning of the term in the Schedule to the Control Order and that, therefore, the public service bus, the subject matter of the agreement which was privately owned and did not belong to government, came within the ambit of the Order in question.

*Held.* that in cases like the present where there was no definition either in the law or in the order it must be presumed that the words were used in their popular sense, that is, according to the common understanding and acceptance of the term and that they have the meaning attached to them in the common and ordinary use of the language; that it does not seem to this Court that the term "private motor-vehicles" would be understood by anybody as meaning all motor-vehicles owned by any person, business or company irrespective of their use in contradistinction to vehicles owned by government; that, therefore, the decision of the trial Judge was wrong and that the appeal should be allowed.

*Appeal allowed.*

Cases referred to:

*E. Cirilli and A. Pantelides v. Metaforiki Eteria Dumpers (M.E.T.) Ltd.* (1979) 1 C.L.R. 794. 15

#### Appeal.

Appeal by plaintiffs against the ruling of the District Court of Nicosia (Ioannides, D.J.) dated the 27th November, 1975 (Action No. 5991/74) whereby it was held that a public service vehicle came within the ambit of Control Order No. 805 issued under section 3 of the Hire Purchase, Credit Sale and Hiring of Property Law, 1966 (Law No. 32/66). 20

*A. Triantafyllides* with *P. Theodorou*, for the appellant.

*A. Poetis*, for the respondent. 25

*Cur. adv. vult.*

L. LOIZOU J. read the following judgment of the Court. The present appeal is against the ruling of the District Court of Nicosia in Case No. 5991/74 and the sole issue that falls for determination is the interpretation of the words "Ιδιωτικά Μηχανοκίνητα Οχήματα" (private motor-vehicles) occurring in the First Schedule to the Order of the Council of Ministers made under s.3 of the Hire Purchase, Credit Sale and Hiring of Property Control Law, 1966 (Law 32 of 1966) and published in Supplement No. 3 to the Gazette of the 3rd November, 1966 under Notification 805. 35

The appellants were plaintiffs in the action by which they claimed a sum of £38 apparently being the last instalment due to them under a hire-purchase agreement in respect of a bus, admittedly being a public service vehicle, the subject matter  
5 of such agreement. The respondent-defendant in the action, was a guarantor under the agreement.

By his defence the defendant alleged that the agreement was illegal and void as made in contravention of the Control Order in that no down payment of the prescribed one third percentage  
10 of the agreed price had been made prior to the signing of the agreement.

When the action came up for hearing, at the request of counsel appearing for both parties, the point of law raised and particularly the question whether a public service motor-vehicle  
15 came within the ambit of the Control Order was set down for hearing as a preliminary point of law under Order 27 of the Civil Procedure Rules.

It may be stated at this stage that the term "private motor-vehicles" is not defined either in the Hire-Purchase Credit  
20 Sale and Hiring of Property Control Law, 1966 or in the Control Order made thereunder.

Having heard argument of counsel appearing in the case on behalf of both parties the trial Judge, agreeing with the contentions made by counsel for the respondent came to the  
25 conclusion that the term "private motor-vehicle" relates to the ownership and not to the use of the vehicle and this because of the natural meaning of the word "ιδιωτικό" (private) which in the Greek Dictionary of Demetrakos is given as "Ο του ιδιώτου" and ruled that all vehicles, irrespective of  
30 the use for which they are licensed, which belong to any person, business or company, as opposed to those which belonged to government, were private motor-vehicles within the meaning of the term in the Schedule to the Control Order and that, therefore, the public service bus, the subject matter of the agree-  
35 ment which was privately owned and did not belong to government came within the ambit of the Order in question.

This same Control Order was the subject of consideration by this Court on appeal in the case of *E. Cirilli and A. Pantelides v. Metaforiki Eteria Dumpers (M.E.T.) Ltd.* (1979) 1 C.L.R.

794. One of the issues decided in that case was the construction of the words "private motor-vehicles" occurring in the First Schedule to the Order. The Court although accepting a submission that they could not rely on the definition of the words given in another law (The Motor Vehicles and Road Traffic Law, Cap. 332), a course followed by the trial Court in that case, it found nevertheless, relying on the ordinary and natural meaning of the term "private motor-vehicles" that it could not include motor-vehicles used for commercial purposes and for reward and allowed the appeal. Quite obviously the Court in reaching their decision relied on the use of the vehicles and not on their ownership.

This constitutes a precedent with which we are in agreement and which we propose to follow. In our view in cases like the present where there is no definition either in the law or in the order we must presume that the words were used in their popular sense, that is, according to the common understanding and acceptance of the term and that they have the meaning attached to them in the common and ordinary use of the language. It does not seem to us that the term "private motor-vehicles" would be understood by anybody as meaning all motor-vehicles owned by any person, business or company irrespective of their use in contradistinction to vehicles owned by government.

For these reasons we think that the decision of the trial Judge was wrong and that the appeal should be allowed.

*Appeal allowed with costs.*