

1985 February 4

[TRIANTAFYLIDES, P., SAVVIDES, PIKIS, JJ.]

VERA PAPACONSTANTINOU,

*Appellant,*

v.

TRADING COMPANY SPARTACOS LTD.,

*Respondents.*

(Case Stated No. 203).

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*Landlord and tenant—Order of possession made under the Rent Control Law, 1975 (Law 36/75) prior to the coming into force of the Rent Control Law, 1983 (Law 23/83)—Rent Control Court has no competence, under section 15 of the latter Law, in relation to such order of possession—Section 32(1) of Law 23/83 does not render section 15 of the same Law applicable—What is applicable is section 19 of Law 36/75—Section 10(2)(b)(c)(e) of the Interpretation Law, Cap. 1.*

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*Statutes—Construction—A statute may not be extended to meet a case for which provision has clearly and undoubtedly not been made—Repeal of statutes—Effect—Section 10 (2)(b)(c) and (e) of the Interpretation Law, Cap. 1.*

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This was an appeal by way of Case Stated from the Rent Control Court of Nicosia.

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*On the question of Law whether or not a Rent Control Court has competence under section 15 of the Rent Control Law, 1983 (Law 23/83), in relation to a case in which an order for possession was made under the Rent Control Law, 1975 (Law 36/75), prior to the 22nd April 1983, when there came into force Law 23/83:*

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*Held*, that section 15 of Law 23/83 refers, in explicit terms, only to a case in which a landlord has obtained a judgment or order for possession or ejection under Part IV of Law 23/83 and, therefore, it cannot be treated as being applicable to a case in which a landlord has obtained

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a judgment or order for possession or ejection prior to the coming into operation of Law 23/83, because "a statute may not be extended to meet a case for which provision has clearly and undoubtedly not been made" (see 5 Craies on Statute Law, 7th ed., p. 69).

*Held, further*, that section 32(1) of Law 23/83 does not render section 15 of the same Law applicable to a case in which there has been obtained, prior to the coming into operation of Law 23/83, a judgment or order for possession or ejection; that what is applicable is section 19 of 10 Law 36/75 which has, by virtue of section 35 of Law 23/83, ceased to be in force, together with Law 36/75, as a whole, except to the extent to which such section 19 is still operative because of the provisions of paragraphs (b) 15 (c) and (e) of section 10(2) of the Interpretation Law, Cap. 1.

*Appeal allowed.*

Cases referred to:

*Millington-Ward v. Roubina* (1970) 1 C.L.R. 88;

20 *Republic v. Pavlides* (1979) 3 C.L.R. 603 at p. 617;

*Constantinou v. C.Y.T.A.* (1980) 3 C.L.R. 243 at p. 255;

*Apostolides v. Republic* (1982) 3 C.L.R. 928 at p. 940;

*Christodoulou v. Republic* (1983) 3 C.L.R. 1361 at p. 1367.

Case stated.

25 Case stated by the Chairman of the Rent Control Court of Nicosia relative to his decision of the 31st July, 1984 in proceedings under section 15 of the Rent Control Law, 1983 (Law No. 23/83) by Emporiki Eteria Spartacos Ltd. against Vera Papaconstantinou whereby it was decided 30 that the Rent Control Court had jurisdiction to try applicant's application for damages although the order for possession was obtained under the Rent Control Law, 1975 (Law No. 36/75).

*C. Emiliades*, for the appellant.

35 *M. Papapetrou*, for the respondents.

*Cur. adv. vult.*

TRIANAFYLLIDES P. read the following judgment of the Court. This is an appeal by way of Case Stated from the Rent Control Court of Nicosia.

The question of law on which we have been asked to pronounce is whether or not a Rent Control Court has competence under section 15 of the Rent Control Law, 1983 (Law 23/83), in relation to a case in which an order for possession was made under the Rent Control Law, 1975 (Law 36/75), prior to the 22nd April 1983, when there came into force Law 23/83. 5 10

The aforesaid section 15 refers, in explicit terms, only to case in which a landlord has obtained a judgment or order for possession or ejection under Part IV of Law 23/83 and, therefore, it cannot, in our opinion, be treated as being applicable to a case in which a landlord has obtained a judgment or order for possession or ejection prior to the coming into operation of Law 23/83, because "a statute may not be extended to meet a case for which provision has clearly and undoubtedly not been made" (see Craies on Statute Law, 7th ed., p. 69). 15 20

Nor does, in our view, section 32(1) of Law 23/83 render section 15 of the same Law applicable to a case in which there has been obtained, prior to the coming into operation of Law 23/83, a judgment or order for possession or ejection, because the said section 32(1) refers to judicial proceedings which are pending on the date of coming into force of Law 23/83 and a judgment or order for possession or ejection obtained prior to that date cannot be treated as a pending judicial proceeding in the sense of section 32(1). 25 30

In our opinion what is applicable to a case in which a landlord has obtained a judgment or order for possession or ejection prior to the coming into force of Law 23/83 is section 19 of Law 36/75, if such judgment or order has been obtained under Part VIII of Law 36/75, as it seems to be the position in the present instance. 35

The said section 19 of Law 36/75 has, by virtue of section 35 of Law 23/83, ceased to be in force, together with

Law 36/75 as a whole, except to the extent to which such section 19 is still operative because of the provisions of paragraph (b), (c) and (e) of section 10(2) of the Interpretation Law, Cap. 1; and, in our view, in Law 23/83, which has repealed Law 36/75, there does not appear an intention contrary to the continued operation of section 19 of Law 36/75 to the extent to which this is made possible by paragraphs (b), (c) and (e) of section 10(2), above.

10 As regards the scope and effect of section 10(2) of Cap. 1 it is relevant to refer to, inter alia, *Millington-Ward v. Roubina*, (1970) 1 C.L.R. 88, *The Republic v. Pavlides*, (1979) 3 C.L.R. 603, 617, *Constantinou v. The Cyprus Telecommunications Authority*, (1980) 3 C.L.R. 243, 255, 15 *Apostolidis v. The Republic*, (1982) 3 C.L.R. 928, 940 and *Christodoulou v. The Republic*, (1983) 3 C.L.R. 1361, 1367.

Consequently, we cannot agree with the view that section 15 of Law 23/83 is applicable to a case such as the present one, as was found by the Rent Control Court of Nicosia in its interim judgment given on the 31st July 1984; and, therefore, this appeal succeeds and the present case is remitted to the Rent Control Court of Nicosia which has to proceed to deal with it in accordance with the judgment given in this Case Stated.

As regards costs we have decided to set aside the order of costs made on the 31st July 1984 by the Rent Control Court and to award to the appellant, against the respondents, the costs of this Case Stated, as well as of the relevant proceedings before the said Rent Control Court.

*Appeal allowed.  
Case remitted  
to trial Court.*