

[HALLINAN, C.J., AND ZEKIA, J.]

(October 3, 1952)

GEORGE S. PAPA PHILIPPOU, *Appellant*,

v.

THE POLICE, *Respondents.*

(Case Stated No. 77.)

Placards and Advertisements Regulations Law (Cap. 135) section 4—Occupier who does not advertise but allows another to do so cannot avail of section 4 (Cap. 135) as a defence—Section 2 of Cap. 135 prohibits advertisements except under the provisions of that Law.

Appellant had asked the permission of the occupier for an advertisement to exhibit placards advertising K.E.O. products within the yard of the tavern. The appellant relied on section 4 of the Law which permits a person to exhibit advertisements relating to his business on the premises which he occupies.

The appellant was convicted.

Held: The exhibitor of an advertisement who obtains the consent of the owner of premises to place advertisements thereon cannot rely on section 4 of the Law as a defence.

Conviction affirmed.

Appeal by accused from the judgment of the District Court of Nicosia (Case No. 2258/51).

Glafcos Clerides for the appellant.

R. R. Denktash, Junior Crown Counsel, for the respondents.

The judgment of the Court was delivered by:

HALLINAN, C.J.: This matter came before us upon a Case Stated by the Magistrate who convicted the applicant under section 2 of the Placards and Advertisements Regulations Law. Under that law it is an offence for any person other than a Municipal Council or Commissioner of the District to exhibit advertisements except, under section 4 of the Law, an occupier exhibits on his premises advertisements relating to the business, profession or trade carried on in these premises. It is for the Court in each case to determine the question of fact. When a person is exhibiting an advertisement, the subject of the charge, the Court is not obliged to accept the mere word of the occupier that he is the exhibitor, if other circumstances in the case justify the Court in finding otherwise. For example, where goods are advertised which are sold on the premises of the occupier but which are manufactured by someone else, the size, number and prominence of the advertisements might well justify a finding that the manufacturer and not the occupier is the real exhibitor even though the occupier may have come to Court and said that he is exhibiting these advertisements.

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In the present case the learned Magistrate has in fact found that the occupier of the premises where the goods, which are the subject of the charge, were exhibited (one Foti Efthymiou) was the exhibitor. These findings are contained in paragraph 3 (b) of the case stated which is as follows :—

“ The accused at all material times was and still is an employee of K.E.O. One day in June last accused called at the tavern of the said Foti Efthymiou of Peristerona and asked the latter to allow him (the accused) to place and exhibit within the yard of his (Foti's) said tavern three placards advertising K.E.O. products. The said Foti Efthymiou gave the accused his leave and the accused placed and exhibited the three placards complained of within the yard of the tavern of the witness Foti Efthymiou.”

The point on which our opinion is now sought is whether when a manufacturer or his agent obtains the consent of the occupier to exhibit goods on the occupier's premises, he can rely on section 4 of the Law.

The answer clearly is “ No ”. The provisions of the Law cannot be evaded by getting the consent of the occupier. On the contrary an occupier by giving his consent and permitting the advertisement to be placed on his premises becomes a party to the offence.

In our opinion the determination of the Magistrate was correct and the conviction and sentence in this case is confirmed.