[WILSON, P., ZEKIA, VASSILIADES AND JOSEPHIDES, JJ.]

SAID GALIB,

Appellant,

v.

SALIM AZIZ AND 4 OTHERS,

Respondents.

(*Civil Appeal No.* 4423).

The Agricultural Debtors Relief Law, 1962—"*Debtor*" *within the meaning of section* 2 *of that Law*—"*Debtor*" *means al Debtor who has all the qualifications, four in mumber, on the date of the coming into operation of the said Law*, i.e. *o n Apri* 26, 1962.

The appellant-applicant made an application to the Agricultural Debtors Relief Court for relief under the Agricultural Debtors Relief Law, 1962.

His application was dismissed by the Agricultural Debtors Relief Court on the ground that the applicant was not a "debtor" within the meaning of section 2 of the Agricultural Debtors Relief Law. (The judgment of that Court is set out in full *post* immediately after the judgment of the High Court).

The applicant appealed against this dismissal and the High Court in dismissing the appeal :—

Held, (1) (*a*) it was submitted that if the definition of debtor in section 2 were framed in a different manner it would be clearer. That is not sufficient to support the appeal. It must be positively shown that the interpretation of the trial court is wrong and cannot be sustained.

(*b*) In any case, however, the position is, I think, made quite clear under the definition as it stands ; especially if one takes into consideration the object for which the definition was put there. The legislature obviously intended to draw a line within which to extend the protection under the Law.

(2) The definition provides that "debtor" means a debtor who on the date of the coming into operation of this Law is a citizen of the Republic and has three other qualifications all of them necessary in order to bring an applicant within the definition and to enable him to make an application for pro-

tection. All these three qualifications, together with the qualification of citizenship, are to be decided on the date of the coming into operation of the Law.

(3) On the facts of this case, which in this connection are not in dispute, the applicant-appellant did not qualify as a debtor under the statute, and his application was, therefore, rightly dismissed by the trial Court.

Appeal dismissed with costs.

Appeal.

Appeal against the judgment of the Agricultural Debtors Relief Court of Nicosia (Attalides and Halil Ag. D.JJ.) dated the 24.1.63 (Application No. 7/62) dismissing an application for relief under the Agricultural Debtors Relief Law (29 of 1962).

A. M. Berberoglou for the appellant.

Ali Dana with *C. J. Myrianthis* for the respondents.

The facts sufficiently appear in the judgments of the High Court and the Lower Court which follow.

WILSON, P. : We think it is unnecessary to call on the counsel for the respondents in this case and I will ask Mr. Justice Vassiliades to deliver the judgment of the Court.

VASSILIADES, J. : This is an appeal against the decision of the Agricultural Debtors Relief Court of Nicosia, dismissing an application under the Agricultural Debtors Relief Law, (Law No. 29 of 1962), on the ground that the applicant was not a " debtor " within the meaning of that term in the statute and was, therefore, not entitled to make an application for relief thereunder.

The trial Court reached their decision by holding that the material date on which the assessed value of the property, owned by the applicant is to be ascertained (for the purpose of deciding whether the applicant is or is not a " debtor " under the Law) is the date of the coming into operation of the Agricultural Debtors Relief Law, *i.e.* the 26th April, 1962, as provided in the definition of the word " debtor " in section 2.

Mr. Berberoglou, on behalf of the appellant, submitted that the material date is that on which the matter is being considered by the Agricultural Debtors Relief Court, *i.e.* the date of the hearing of the application. He very rightly,

in my opinion, conceded that if his submission fails, and the Court holds that the material date is that on which the statute came into force (*i.e.* 26.4.62) the appellant is clearly outside the definition and, therefore, his application was rightly dismissed by the Agricultural Debtors Relief Court.

Mr. Berberoglou based his submission mainly on the argument that if the definition of " debtor " in section 2 were framed in a different manner it would be clearer. That is not sufficient to support the appeal. It must be positively shown that the interpretation of the trial Court is wrong and cannot be sustained. In any case, however, the position is, I think, made quite clear under the definition as it stands ; especially if one takes into consideration the object for which the definition was put there. The legislature obviously intended to draw a line within which to extend the protection of the law to farmers whose property did not exceed certain limits and who, moreover, otherwise qualified for protection under the Law. The difinition provides that " debtor " means a debtor who on the date of the coming into operation of this law is a citizen of the Republic and has three other qualifications all of them necessary in order to bring an applicant within the definition and to enable him to make an application for protection. All these three qualifications, together with the qualification of citizenship, are to be decided on the date of the coming into operation of the Law.

On the facts of this case, which in this connection are not in dispute, the applicant-appellant did not qualify as a debtor under the statute, and his application was, therefore, rightly dismissed by the trial Court.

The appeal fails and is dismissed with costs.

Appeal dismissed with costs.

JUDGMENT OF RELIEF COURT.

The judgment of the Relief Court of Nicosia, composed of Attalides and Halil, Ag. D.JJ. was as follows :

"The applicant filed this application on the 26th June, 1962, whereby he seeks relief in respect of five sets of debts which he owes to four Turkish creditors and one Greek, the particulars of which are set out at p. 3 of the application, according to which these debts amount to just over twenty-six thousand pounds up to the date of the filing of the applica-

tion whereas according to the figures expressed in the respective oppositions of the creditors, they total over thirty one thousand pounds.

After the opening by applicant's counsel, the creditors' counsel submitted that quite a lot of time would be saved if the case proceeded on the basis of trying the main issue, *i.e.* whether or not the total assessed value of applicant's properties exceeded £1,500. After hearing applicant's counsel in reply the Court acceded to the afore-mentioned submission, and adopted the course of confining the proceedings to this main issue.

The applicant gave evidence on oath, and called Mr. Merih Hassan, a D.L.O., clerk.

The applicant, amongst other things, has stated that he had not included in his application certain properties, which he had sold privately, but that later on, he had included them in a supplementary statement. Particulars of these properties are contained in exhibit 4 before us. He went on to say that the total assessed value of the properties he had so sold was £624.870 mils, and that of those he had originally declared in his application was £1,590.796 mils. He agreed to a suggestion made to him in cross-examination that if the assessed value of the properties he had sold were added to those declared in the application the grand total would exceed the £1,500 mark.

The D.L.O. clerk, on the other hand, has stated that on the 26.4.62 (the date on which Law 29 of 1962 came into operation) the applicant's properties bore a total assessed value of £2,217.766 mils, and that the assessed value of the properties sold by applicant (*vide* exhibit 4) was £624.810 mils.

He then went on to describe how on the 8.1.63—after the adjournment of the first day's hearing—the applicant applied to the D.L.O. for devaluation of four lots ; that the devaluation inquiry was pushed ahead because applicant had paid " acceleration fees " and completed on the 10.1.63 ; that he had collected his information *in situ* from the Mukhtar who happens to be applicant's brother, but that the devaluation was made by himself with the Mukhtar agreeing as to its reasonableness. He stressed that after the completion of the devaluation, when one subtracted the assessed value of the properties sold by applicant by virtue of exhibit 4, the assessed value of applicant's properties was left at £1,393.956 mils.

Able counsel for both (or all) sides referred us to the definition of " debtor" in section 2 of the Law, and advanced arguments thereon, Mr. Berberoglou urged us to consider the position as it stands to-day, not as it did at the date of the enactment of the Law. Mr Myrianthis argued that the matter should be viewed when the Law became operative and invited us to adopt his view.

In rejecting Mr. Berberoglou's submission as being untenable we point out the following :

(*a*) Even if we were to accept the existence of the private sale (*vide* Exhibit 4) and subtract £624.810 mils from £2,217.766 mils, the balance is £1,592.956 mils, *i.e.*, over £1,500.

(*b*) We are of the opinion that the position must be viewed as it existed on 26.4.62 ; we do not attach any importance to the devaluation made during the pendency of these proceedings.

It strikes us that when the applicant filed his application he was under the impression that the assessed value of his properties was under the £1,500 mark, but on discovering this after the first day's hearing, he resorted to " devaluation tactics " in order to bring himself within the meaning of the Law. Owing to our above conclusions we do not find it necessary to express any convictions about exhibit 4, which applicant brought to light in a supplementary statement filed after the lodgment of his application.

In our opinion, the total assessed value of applicant's properties standing registered in his name in the books of the D.L.O. as on 26.4.62 was over fifteen hundred pounds ; we, therefore, find that he is not a debtor within the meaning of the Law. As we think that this finding disposes of the " main issue " we find that the application fails, and we accordingly dismiss it with costs to be taxed by the Registrar ".