

1963
March 19,
1964
Oct 23

[ZEKIA, P., VASSILIADES, TRIANTAFYLIDIS, MUNIR AND
JOSEPHIDES, JJ.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

ANTONIOS PILAVAKI AND OTHERS,

Applicants,

and

THE REPUBLIC OF CYPRUS, THROUGH—

(a) THE DISTRICT OFFICER OF LIMASSOL

(b) ALEXANDROS IOANNOU CHAIRMAN OF THE
VILLAGE COMMITTEE OF PHINI,

Respondent

(Case No 194/62)

ANTONIOS
PILAVAKI
AND OTHERS
and
THE REPUBLIC
OF CYPRUS,
THROUGH—
(a) THE
DISTRICT
OFFICER
OF LIMASSOL
(b) ALEXANDROS
IOANNOU
CHAIRMAN
OF THE
VILLAGE
COMMITTEE
OF PHINI

Immovable property—Property donated for the benefit of the inhabitants of a village, not devoted to the purpose—Complaint for—Not communal property within section 19 of the Immovable Property (Tenure, Registration and Valuation) Law, Cap 224—A case which “concerns only the eventual use of the property and not its nature”—Action taken by Village Commission not a matter within ambit of Article 146

Constitutional and Administrative Law—Article 146 of the Constitution—Public law and Private law—In this case the Village Commission has not acted, even if its action was approved by the District Officer of Limassol, as an organ of administration in the sphere of public law—Therefore any complaint concerning that action is not a matter to be determined through a recourse under Article 146 of the Constitution

The applicants in this recourse, who are inhabitants of the village of Phini, complain that the property the subject-matter of this case, has not been devoted to the purpose, viz the erection of a market, for which it was donated and registered in 1942 in the name of the Chairman of the Village Commission for the benefit of the inhabitants

Held, (1) in all the circumstances surrounding the said transaction and consequent registration in 1942, the Court is satisfied that this is not a case where the property in question was, either before the said registration, or has become, by virtue of such registration, communal property within the meaning of section 19 of the Immovable Property (Tenure, Registration and Valuation) Law, Cap 224

(2) It is a case where the aforesaid property, being private property, was registered in the name of the Chairman of the Village Commission for a communal purpose, but this, as it was effected in this case, concerns only the eventual use of the property and not its nature.

(3) In taking the course complained of in this case the Village Commission has not acted, even if its action was approved by the District Officer Limassol, as an organ of administration in the sphere of public law, and any complaint concerning any action taken by it is not a matter to be determined through a recourse under Article 146 ; it is a matter which may possibly give rise to proceedings for breach of trust or otherwise before a civil court, a thing on which the Court at this stage expresses no opinion in any way.

Application dismissed. Each party to bear own costs for to-day. Applicants to pay the Republic £10 costs towards costs incurred at previous stages of the proceedings.

Recourse.

Recourse against the refusal of the respondent to devote the property, the subject matter of the case, to the purpose, *viz.* the erection of a market, for which it was donated and registered in 1942 in the name of the Chairman of the Village Commission of Phini for the benefit of the inhabitants.

Chr. P. Mitsides, for the applicants.

K. C. Talarides, Counsel for the Republic, for the respondent.

ZEKIA, P. : The judgment of the Court will be delivered by Mr. Justice Triantafyllides.

TRIANTAFYLLIDES, J. : In this Case the applicants, who are inhabitants of the village of Phini, complain that the property, the subject-matter of the Case, has not been devoted to the purpose, *viz.* the erection of a market, for which it was donated and registered in 1942 in the name of the Chairman of the Village Commission for the benefit of the inhabitants.

In all the circumstances surrounding the said transaction and consequent registration in 1942, the Court is satisfied

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that this is not a case where the property in question was, either before the said registration, or has become, by virtue of such registration, communal property within the meaning of section 19 of the Immovable Property (Tenure, Registration and Valuation) Law, Cap. 224.

It is a case where the aforesaid property, being private property, was registered in the name of the Chairman of the Village Commission for a communal purpose, but this, as it was effected in this Case, concerns only the eventual use of the property and not its nature.

It follows, therefore, that in taking the course complained of in this case the Village Commission has not acted, even if its action was approved by the District Officer Limassol, as an organ of administration in the sphere of public law, and any complaint concerning any action taken by it is not a matter to be determined through a recourse under Article 146 ; it is a matter which may possibly give rise to proceedings for breach of trust or otherwise before a civil court, a thing on which the Court at this stage expresses no opinion in any way.

For the above reasons this application cannot succeed and it is dismissed accordingly.

Regarding costs, the Court is of the opinion that each party should bear its own costs for today, but the applicants should pay the Republic £10 costs, towards costs incurred at previous stages of the proceedings.

Application dismissed.