

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

1963
March 21,
1964
Oct. 23

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

D. J. DEMADES & SONS LTD.,

Applicants,

and

THE REPUBLIC OF CYPRUS, THROUGH THE DISTRICT
OFFICER OF LIMASSOL, AS THE APPROPRIATE
AUTHORITY OF KATO-POLEMIDHIA,

Respondent.

D. J. DEMADES
AND SONS LTD.,
and
THE REPUBLIC
OF CYPRUS,
THROUGH
THE DISTRICT
OFFICER
OF LIMASSOL
AS THE
APPROPRIATE
AUTHORITY
OF KATO-
POLEMIDHIA

(Case No. 318/62)

Streets and Buildings Regulation Law, Cap. 96—Refusal of Appropriate Authority, (District Officer), to grant building permit—Misconception as to the Law to be applied—Decision of the District Officer null and void—Up to him to reach afresh a decision upon proper application of Law.

This is a recourse against the refusal of the District Officer Limassol, as the appropriate authority under the Streets and Buildings Regulation Law, Cap. 96, to grant to applicants a building permit for the erection of a building consisting of showrooms, offices and stores.

Held, (1) the District Officer has proceeded to refuse the building permit applied for on the assumption that the Notice given on the 22nd day of June, 1955, under section 14 (1) of the aforesaid Law (Not. 404 in Supplement No. 3 to the Cyprus Gazette 1955) amounted to a reservation of the area concerned "exclusively for residential purposes" and not only to a prohibition of the erection within such area of "buildings for special trades or industries", which is in fact what the said Notice amounts to.

(2) On the face of the *sub judice* decision it is clear that the authorities acted under a misconception as to the law to be applied in the matter and, in the circumstances, the Court has reached the conclusion that the decision in question of the District Officer must be declared to be null and void and of no effect whatsoever.

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(3) In adopting this course the court is not pronouncing on the merits of applicants' application for a building permit. It is up to the District Officer, upon a proper application of the Law, including the said notice, to the relevant facts, to reach afresh a decision which he will communicate to the applicants.

Decision complained of declared null and void.

Recourse.

Recourse against the refusal of the District Officer Limassol, as the appropriate authority under the Streets and Buildings Regulation Law, Cap. 96, to grant to applicant building permit for the erection of a building consisting of showrooms, offices and stores.

L. Demetriades with *N. Pelides*, for the applicants.

G. Cacoyiannis, for the respondent.

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

TRIANAFYLLIDES, J. : In this case the applicants have made a recourse against the refusal of the District Officer Limassol, as the appropriate authority under the Streets and Buildings Regulation Law, Cap. 96, to grant them a building permit for the erection of a building consisting of showrooms, offices and stores.

The refusal is to be found in a letter dated the 17th December, 1962. On the basis of the contents of such letter the Court has reached the conclusion that the District Officer has proceeded to refuse the building permit applied for on the assumption that the Notice given on the 22nd day of June, 1955, under section 14 (1) of the aforesaid Law (Not. 404 in Supplement No. 3 to the Cyprus Gazette 1955) amounted to a reservation of the area concerned "exclusively for residential purposes" and not only to a prohibition of the erection within such area of "buildings for special trades or industries", which is in fact what the said Notice amounts to.

This is a case, therefore, where on the face of the sub judice decision it is clear that the authorities acted under a misconception as to the law to be applied in the matter

and, in the circumstances, the Court has reached the conclusion that the decision in question of the District Officer must be declared to be null and void and of no effect whatsoever.

In adopting this course the Court is not pronouncing on the merits of applicants' application for a building permit. It is up to the District Officer, upon a proper application of the law, including the said Notice, to the relevant facts, to reach afresh a decision which he will communicate to the applicants.

No order as to costs.

Decision of Appropriate Authority, (District Officer), declared null and void and of no effect whatsoever.

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