

1969  
Dec. 19

[VASSILIADES, P. JOSEPHIDES AND HADJIANASTASSIOU, JJ.]

—  
GEORGHIOS  
MANNOURIS  
& ANOTHER  
v.  
GLYKYS BROS.

GEORGHIOS MANNOURIS AND ANOTHER,  
*Appellants-Defendants,*

v.

GLYKYS BROS.,  
*Respondents-Plaintiffs.*

(Civil Appeal No. 4819).

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*Landlord and Tenant—Depressed areas—Relief to tenants of business premises within such areas—Adjustment of rent—Application for—Relief available only to tenants in respect of “business premises occupied by him”—Tenants no longer in occupation not protected—The Depressed Tenants Relief Law, 1965 (Law No. 19 of 1965), sections 3(1), 4(1) and 7.*

*Depressed Tenants Relief Law, 1965 (Law 19/65)—Section 4(1)—Object of the Law to protect tenants in occupation.*

*Depressed areas—Relief for the benefit of tenants in respect of business premises within such areas—Law No. 19 of 1965 (supra)—See hereabove.*

By section 4(1) of the Depressed Tenants Relief Law, 1965 (Law No. 19 of 1965) it is provided that “any tenant of premises within a depressed area, may within two months of the publication of the order referred to in sub-section (1) of section 3 by application to the Court seek that the rent payable as from the first day of December, 1963 in respect of the business premises *occupied by him* be determined.....”

In the present case the tenant (appellant 1-defendant 1) was not in occupation of the premises at the time he made his application to the Court for the adjustment of the rent under the said Law—in fact he had vacated the premises about ten months before the enactment of the Law, and about fourteen months before the Law came into operation (August 19, 1965).

Dismissing the tenant’s appeal the Supreme Court:-

*Held*, (1). As we read Law 19 of 1965 (*supra*), it was intended to protect tenants of business premises in depressed

areas, as defined in the Law, who were actually in occupation of the premises at the time of the application to the Court for the adjustment of the rent of their business premises under the provisions of section 4 of the Law. This is made quite clear by the very wording of that section which refers to "business premises occupied by him" (the tenant).

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(2) As in the present case the tenant (appellant 1-defendant 1) was not in occupation of the premises at the time he made his application to the Court for the adjustment of the rent, we are of the view that, even if there are any procedural irregularities, in substance the tenant has no legal foundation whatsoever for his complaint and the defendants' appeal must accordingly fail. As no costs are claimed by the plaintiffs (respondents) there will be no order as to costs.

*Appeal dismissed.*

**Appeal.**

Appeal by defendants against the ruling of the District Court of Nicosia (Demetriades, D.J.) dated the 4th May, 1969 (Action No. 1043/64) whereby it was decided that the Court could proceed and deliver its judgment in an action for arrears of rent.

- A. Paikkos, for the appellants.
- X. Clerides, for the respondents.

VASSILIADES, P.: Mr. Justice Josephides will deliver the judgment of the Court.

JOSEPHIDES, J.: This is an appeal by the defendants against the ruling of a District Judge whereby he decided that the Court could proceed and deliver its judgment in an action for arrears of rent.

The material part of the learned Judge's ruling is to the effect that —

"as the defendants have failed to comply with the provisions of Law 19 of 1965 and file their application in the proper Cause Book and in view of the provisions of section 7 of this Law, the defendants should be considered as having failed to exercise the rights given to them by and take advantage of the provisions of the Law and that the Court can proceed to deliver its judgment in the action."

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Although the notice of appeal contains several grounds, based on alleged procedural irregularities and failure of the Judge to comply with the provisions of Law 19 of 1965, we have heard and we are deciding this appeal on a point of substance which I shall state after giving a brief statement of the facts of this case.

The facts as appearing in the pleadings and which are mostly undisputed are as follows:

In January 1961 the plaintiffs (respondents) and defendant 1 (appellant 1) entered into a contract of lease whereby the plaintiffs let to defendant 1 their shop in Paphos Street, Nicosia, for a period of one year, commencing on the 1st February, 1961 and ending on the 31st January, 1962; and thereafter from year to year until either party, by appropriate notice of at least two months before the expiration of the lease, informed the other of his intention not to renew the lease. The agreed rent was £30 per month payable in arrear. Defendant 2 (appellant 2) is the guarantor. The defendants paid the rent of the premises until the 31st October, 1963, but they failed to pay any rent from the 1st November, 1963, up to the 31st May, 1964, after which date the present action was instituted. Meanwhile, on the 21st December, 1963, the inter-communal troubles began in Nicosia and as a result the area where the shop in question was situated was greatly affected and all the shops in Paphos Street were closed.

There was some correspondence between the parties regarding the non-payment of the rent by the defendants and this eventually culminated in the institution of the present action on the 9th June, 1964, whereby the plaintiffs claimed (a) the sum of £210 as arrears of rent from the 1st November, 1963, to the 31st May, 1964; and (b) £30 per month from the 1st June, 1964 to the 31st December, 1964, on which date the contract of lease between the parties expired. Eventually the defendants delivered the keys of the premises to the plaintiffs on the 22nd June, 1964, and they filed their defence three days later, on the 25th June, 1964, alleging frustration of the contract.

The case was heard by the learned trial Judge on the 17th December, 1964, and judgment reserved. Before the Judge had time to deliver his judgment some four-and-a-half months later, on the 29th April, 1965, the Depressed Tenants Relief

Law, 1965 (No. 19 of 1965) was enacted and published in the Official Gazette. This Law did not effectively come into operation until the 19th August, 1965, when an order by the Council of Ministers was published in the Official Gazette under the provisions of section 3(1) of the Law.

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The object of that law was to relieve tenants whose premises were in areas affected by the then prevailing conditions and whose business had been adversely affected as a result of the proximity of their premises to dangerous places (see section 3(1) of the Law). By section 4(1) of the same Law it was provided that “any tenant of premises within a depressed area, may within two months of the publication of the order referred to in sub-section (1) of section 3, by application to the Court seek that the rent payable as from the first day of December, 1963, in respect of the business premises occupied by him be determined.....” Let it be noted that the material words in that section with which we are concerned in the present case are “in respect of the business premises *occupied by him.*”

The other material section of Law 19 of 1965 is section 7 which provides that “Further proceedings in any case pending before any Court in connection with the payment of arrears of rent due as from the first day of December, 1963, ..... shall be stayed until the Court adjusts the rent under this Law.....”

We shall revert to the point of law which arises in the present case after we finish with the facts in their sequence. On the day following the publication of the notice of the Council of Ministers, under section 3 of the Law, that is, on the 20th August, 1965, the defendants filed an application in the present action praying the Court to adjust the rent of the premises in question, under the provisions of Law 19 of 1965. Argument was heard by the learned Judge on the 5th November, 1965, and proceedings were stayed pending his ruling. Further argument was heard on the 13th May, 1969, and the Judge’s ruling, which is the subject of the present appeal, was delivered on the 24th May, 1969. We have already stated the effect of this ruling.

The present appeal against that ruling was lodged on the 2nd June, 1969, but eventually, as there was no stay of proceedings, the learned Judge proceeded to deliver his final judgment in the action on the 11th July, 1969, awarding the plaintiffs

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the sum of £240 as arrears of rent in respect of the period from the 1st November, 1963, to the 30th June, 1964. He declined to award any sum to the plaintiffs in respect of the remaining period but we are not concerned with that in the present appeal.

The argument put forward today by learned counsel for the defendants (appellants) is that, as the defendants applied to the Court on the 20th August, 1965, for the adjustment of the rent of the premises under the provisions of Law 19 of 1965, the proceedings in the present action should have been stayed under the provisions of section 7 of the Law, until the Court adjusted the rent under the Law.

The question which falls for determination in the present case is this: Were the defendants entitled to the benefit of the adjustment of the arrears of rent under Law 19 of 1965?

As we read Law 19 of 1965, it was intended to protect tenants of business premises in depressed areas, as defined in the Law, who were actually in occupation of the premises at the time of the making of the application to the Court for the adjustment of the rent of their business premises under the provisions of section 4. This is made quite clear by the very wording of that section which refers to "business premises occupied by him" (the tenant). If the legislator did not intend that the protection should only be given to tenants in occupation, surely the words "*occupied by him*" should not appear in the section at all.

As in the present case the tenant (defendant 1) was not in occupation of the premises at the time he made his application to the Court for the adjustment of the rent—in fact he had vacated the premises about ten months before the enactment of the Law, and about 14 months before the Law came into operation—we are of the view that, even if there are any procedural irregularities, in substance the tenant has no legal foundation whatsoever for his complaint and the defendants' appeal must accordingly fail. As no costs are claimed by the plaintiffs (respondents) there will be no order as to costs.

In the result the appeal is dismissed with no order as to costs.

*Appeal dismissed; no  
order as to costs.*