

1986 September 30

[TRIANTAFYLIDIS, P., LORIS, KOURRIS, JJ.]

PINELOPI K. GEORGHIADES AND OTHERS,

*Appellants (Applicants).*

v.

MOBIL OIL CYPRUS LTD.,

*Respondents.*

*(Case Stated No. 227).*

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*Rent control—The Rent Control Law 23/83—Section 32(1)—Scope—Transfer of pending application for fixing the proper rent—Once the transfer was made the Rent Control Court is bound to apply to it the provisions of Law 23/83—As respondents were not “tenants” in the sense of section 2 of the said law, the said Court did not possess jurisdiction to deal with the said application—Therefore, said application correctly dismissed.*

*Words and Phrases: “Tenant” in section 2 of The Rent Control Law 23/83—Does not include a company controlled by aliens.*

The appellants' application for fixing the rent of premises of which the respondents were tenants was filed in 1978 under the Rent Control Law 36/75, which was then in force. As upon the enactment of the Rent Control Law 23/83 the said application was still pending, it was transferred for determination to the Rent Control Court, established by the said Law 23/83. This appeal by way of case stated raises the issue of the correct application of s. 32(1) of Law 23/83.

*Held:* (1) Section 32(1) leaves no room for exceptions and, therefore, the application was correctly transferred to the Rent Control Court. Once such transfer was made the Rent Control Court had no alternative but to apply the provisions of Law 23/83.

(2) As the respondents are a company controlled by aliens and, therefore, they are not "tenants" within the definition of "tenant" in section 2 of Law 23/83, the Rent Control Court correctly dismissed the application as it did not possess jurisdiction to deal with the merits of the application. 5

*Order accordingly.*

**Case stated**

Case stated by the Chairman of the Rent Control Court relative to his decision of the 19th September, 1985 in proceedings under section 7 of the Rent Control Court Law, 1975 (Law No. 36/75) instituted by Pinelopi K. Georgiades and Others against Mobil Oil Cyprus Ltd. whereby their application for fixing the rent of premises occupied by the respondents was dismissed. 10  
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*M. Constantinides*, for the appellants.

*L. Demetriades*, for the respondents.

*Cur. adv. vult.*

TRIANAFYLLIDES P., read the following judgment of the Court. In this case the basic issue which has been raised before us for determination, by way of this Case Stated, is the correct application of section 32(1) of the Rent Control Law, 1983 (Law 23/83), which provides that all judicial proceedings which are pending on the date of the coming into force of Law 23/83 are transferred to the Rent Control Court set up under such Law, which deals with them and issues an order or judgment in accordance with the provisions of Law 23/83. 20  
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The appellants filed, on the 30th December 1978, under the then in force relevant provisions of the Rent Control Law, 1975 (Law 36/75), an Application (No. 1137/78) for the fixing of the proper rent of premises belonging to the appellants and being in the possession of the respondents as tenants. 30

After the enactment of Law 23/83 the said Application was transferred, by virtue of section 32(1) of Law 23/83, 35

to the Rent Control Court of Nicosia which was set up under Law 23/83.

5 In our opinion the said Application was properly transferred because the sweeping provisions of section 32(1) of Law 23/83 do not leave any room for exemptions from its scope.

10 Also, once the said Application was transferred to the Rent Control Court of Nicosia it had no alternative, under section 32(1) of Law 23/83, but to apply to it the provisions of Law 23/83.

15 In the light of all the foregoing we are of the view that the Rent Control Court of Nicosia correctly dismissed the Application in question because the respondents are a company controlled by aliens and, therefore, in view of the definition of "tenant" in section 2 of Law 23/83 which does not include a company controlled by aliens, the respondents are not tenants coming within the ambit of Law 23/83 and, consequently, the Rent Control Court of Nicosia did not possess jurisdiction to deal with the merits of the aforementioned Application for the fixing of the proper rent of the premises of the appellants of which the respondents are the tenants.

25 Once we have pronounced, as stated in this judgment, on the issue of the application of section 32(1) of Law 23/83 to this case, there is no reason to deal with any other issue which has been raised by the Case Stated and we remit the matter to the Rent Control Court for any necessary action as a result of the judgment just given by us.

30 In accordance with the line taken by the Rent Control Court we are not prepared to make any order as to the costs of this Case Stated.

*Order accordingly.*