

1986 July 4

TRIANAFYLIDIS P. MALACHTOS DEMETRIADES LORIS STYLIANIDES JJ.

ANDROULLA NASSARI.

*Appellant-Interested Party.*

v.

KYRIAKI DEMETRIOU AND OTHERS.

*Respondents-Applicants.*

and

THE REPUBLIC OF CYPRUS, THROUGH

1. COUNCIL OF MINISTERS,
2. MINISTRY OF EDUCATION,
3. DIRECTOR OF HIGHER AND HIGHEST EDUCATION,

*Respondents.*

*(Revisional Jurisdiction Appeal No. 534).*

*Revisional jurisdiction appeal — Interested party in a recourse — Cannot appeal against annulling decision, if he has not taken part in the proceedings on his own*

*Revisional jurisdiction on appeal — Interested party in several recourses — Annulling decision in all recourses — Whether interested party can file an appeal in only some of the recourses — Question answered in the negative.*

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The admission of the appellant to the Paedagogical Academy of Cyprus was annulled by a Judgment of a Judge of this Court issued in recourses 512/84, 534/84 and 535/84. The appellant was an interested party in all three recourses, but did not take part on her own in the proceedings. Moreover, the appellant did not file an appeal against the judgment in Recourse 534/84.

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The question that calls for determination is whether the appellant can pursue this appeal. Her counsel sought to distinguish this case from *Theodondes v. Ploussiou* (1976) 3 C.L.R. 319 on the ground that the present appellant was not duly notified of recourses 512/84 and 535/84.

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Held, *dismissing the appeal*, that it was not open to the appellant to file this appeal against the annulment of her admission to the Academy by means of the judgment given in determining together recourses Nos. 512/84 and 535/84, because even if such appeal would be successful, her admission to the

Academy would still remain annulled by means of the judgment given in recourse No. 534/84, against which she has not appealed

*Appeal dismissed No order  
as to costs.*

5 *Cases referred to*

*Theodondes v Ploussiou* (1976) 3 C.L.R. 319,

*Bagdades v. Ploussiou* (1984) 3 C.L.R. 1556.

### **Appeal.**

10 *Appeal against the judgment of a Judge of the Supreme Court of Cyprus (Savvides, J.) given on the 23rd November, 1985 (Revisional Jurisdiction Cases Nos. 512/84 and 535/84)\* whereby the decision of the respondents to admit the appellant as a student in the Paedagogical Academy as belonging to a special category was annulled.*

15 *E. Efstathiou with M. Tsangarides, for the appellant - interested party.*

*A. S. Angelides, for respondents-applicants.*

*A. Evangelou, Senior Counsel of the Republic, for respondents.*

*Cur. adv. vult.*

20 **TRIANTAFYLLIDES P.** read the following judgment of the Court. By means of the present appeal the appellant challenges the judgment given on 23 October 1985, in the first instance, by a Judge of this Court in determining together recourses Nos. 512/84 and 535/84, which were filed under Article 146 of the  
25 Constitution.

By the motions of relief in such recourses it was claimed, inter alia, that the decision of the respondent organs of the Republic of Cyprus, by virtue of which the appellant was admitted as a student to the Paedagogical Academy, was invalid; and by means of the  
30 aforementioned judgment the said decision was annulled.

None of the respondent organs of the Republic has filed an appeal against such judgment.

At the commencement of the hearing of this appeal there was raised by counsel for the respondents — (applicants in the

\* Reported in (1985) 3 C.L.R. 2853.\*\*

recourses) — the objection that the appellant could not file the present appeal because she had not elected to take part on her own, as an interested party, in the proceedings before the trial Judge.

In *Theodorides v. Ploussiou*, (1976) 3 C.L.R. 319, 331 it was held that an interested party is not entitled to file an appeal if he has not elected to take part on his own in the first instance proceedings in which the appealed from judgment was given, and the *Theodorides* case was affirmed in *Bagdades v. Ploussiou*, (1984) 3 C.L.R. 1556.

It was argued by counsel for the appellant that the present case is distinguishable from the *Theodorides* and *Bagdades* cases supra, inasmuch as the appellant was not duly notified as an interested party in recourses Nos. 512/84 and 535/84 in respect of which the judgment against which she appeals was given

We have perused the relevant Court records, which are before us, and it appears that a similar recourse, No. 516/84, was made against the admission of the appellant to the Paedagogical Academy and that when she was notified as an interested party about such recourse, by means of a notice dated 2 January 1985, she was notified, also, by a «note» endorsed on such notice, that there had, also, been made recourse 535/84 against her admission to the said Academy; and that a copy of the Application in such recourse was attached to the said notice, which was served personally on the appellant on 14 January 1985.

Notwithstanding the said «note» the appellant did not seek to take part on her own in the proceedings in recourse No. 535/84.

Eventually recourse No. 516/84 was withdrawn as the outcome of recourse No. 512/84 would dispose of the subject-matter of recourse No. 516/84, too.

The admission of the appellant to the Paedagogical Academy was challenged by means of yet another similar recourse, No. 534/84, and she was notified, as an interested party, about such recourse, too, by means of a notice dated 10 October 1984, which was served personally on her on 19 November 1984. In this recourse judgment was given on 23 October 1985 annulling the admission of the appellant to the Academy, on the same day when the judgment against which the present appeal was made was given in recourses Nos. 512/84 and 535/84

Though the appellant appealed, by means of the present appeal, against the judgment annulling her admission to the Academy which was given in recourses Nos. 512/84 and 535/84 she did not appeal against the judgment given in recourse No. 534/84, which also annulled her admission to the Academy.

Since the appellant did not seek to take part on her own in the proceedings in recourse No. 535/84 she cannot appeal against the judgment given in that case, which is, actually, the same judgment as that which was given in respect of recourse No. 512/84 and against which the present appeal has been made.

Even assuming, however, that, because the appellant was not formally notified as an interested party in respect of recourse No. 512/84, she can appeal against the present judgment which determined together that recourse and recourse No. 535/84, there remains the fact that she has not appealed against the judgment which was given in recourse No. 534/84 and by means of which her admission to the Paedagogical Academy was annulled.

We are, therefore, of the opinion that it was not open to the appellant to file this appeal against the annulment of her admission to the Academy by means of the judgment given in determining together recourses Nos. 512/84 and 535/84, because even if such appeal would be successful her admission to the Academy would still remain annulled by means of the judgment given in recourse No. 534/84, against which she has not appealed.

In the light of all the foregoing the appellant cannot pursue the present appeal which is dismissed, but with no order as to its costs.

*Appeal dismissed.  
No order as to costs.*