

1987 January 21  
[SAVVIDES J]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION  
NICOS ANTONIOU,

*Applicant*

v

THE REPUBLIC OF CYPRUS, THROUGH  
THE MINISTER OF COMMUNICATIONS AND WORKS,

*Respondent*

(Case No 430/85)

5 *Motor vehicles—Circulation fees—Reduced circulation fees—The Motor Vehicles and Road Traffic (Amendment) (No 2)—Law 64/78—Paragraph 3E(1) (a) of Part 1 of the Schedule as amended by Law 64/78—«First registered» in the said paragraph—Said words refer to «registration» under the said laws and the regulations made thereunder—They do not refer to any previous registration abroad*

*Words and Phrases «First registered» in para 3E(1) (a) of Part I of the Schedule of the Motor Vehicles and Road Traffic (Amendment) (No 2) Law 64/78*

10 The applicant, who is the owner of a car, which he imported duty free upon his return and which was registered in Cyprus on 30 1 84, applied for a licence for the year 1985 at reduced circulation fees, contending that the car was registered for the first time in England on 11 10 79 and as it was six years old he was entitled to a reduction of the fees under para 3E of Part 1 of the Schedule to Law 64/78 The application was turned down on the ground that  
15 the material date was the date of the registration of the car in Cyprus The applicant paid the fees, but he applied for a refund on the same ground as aforesaid and when this application was also turned down for the same reason, he filed the present recourse

20 Held, *dismissing the recourse* (1) The whole case turns on the construction of para 3E(1) (a)\* of Part I of the Schedule to Law 64/78

(2) From reading the law, the said Schedule and the regulations made under the said law, there can be no doubt that the words «registration» or «registered» in the Motor Vehicles and Road Traffic Laws refer to registration under the said laws and the regulations made thereunder If the legislature had  
25 intended the words «first registered» in the said paragraph to include any pre-

\*Quoted at p 86

vious registration abroad, express words to that effect should have been used, as it was done in relation to matters in respect of which the legislature intended otherwise, e.g. in the case of Regulation 4(2) (a) (i).

*Recourse dismissed*  
*No order as to costs*

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**Recourse.**

Recourse against the refusal of the respondent to accept reduced circulation fees in issuing a licence in respect of applicant's motor car under Reg. No. Q.D.556.

*L. Clerides*, for the applicant.

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*M. Tsiappa (Mrs.)*, for the respondent.

*Cur. adv. vult.*

SAVVIDES J. read the following judgment. The applicant in this case challenges the decision of the respondent contained in a letter dated the 30th March, 1985 whereby the respondent refused to accept reduced circulation fees in issuing a licence in respect of his car under Registration No. QD 556.

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The sub judge decision is contained in a letter dated the 30th March, 1985, signed by the Director-General of the Ministry of Communications and Works, addressed to counsel for applicant which reads as follows:

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«I have been instructed to refer to the correspondence which ends with my letter dated 17.1.1985 in connection with an application of your client Mr. N. Antoniou for the issue of a licence for his motor vehicle under Registration No. QD 556 at reduced circulation fees and inform you that his application cannot be satisfied because, for the purposes of reduction of the circulation fees, the date which is taken into consideration is the date of registration of the vehicle in Cyprus under the provisions of section 5, paragraph 3E of Part I of the Schedule to Law 64/78».

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The facts of the case are briefly as follows:

The applicant was a permanent resident of England for a number of years and returned to Cyprus in 1983 for the purpose of settling in Cyprus. He is the owner of a car under Registration QD 556 which he imported to Cyprus duty-free upon his return

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and which was registered in Cyprus on 30.1.84. In 1985 the applicant applied for a licence for the year 1985 at reduced circulation fees, contending that the car was registered for the first time in England on 11.10.1979 and it was, as a result, six years old and therefore he was entitled to a reduction on the fees under the provisions of section 5, paragraph 3E of Part I of the Schedule to Law 64/78.

The responsible officer of the Department of Registration of Motor Vehicles refused to accept the payment of reduced fees, relying on the provisions of the law, on the ground that the car was first registered in Cyprus on 30.1.84 and that such date was the material date for the purposes of this law. Applicant paid the full amount of such fees and, through his advocate, addressed a letter dated the 8th January, 1985, requesting the refund to which he was entitled, bearing in mind the fact that the car was six years old. In reply to such letter, the respondent addressed to him the letter dated 30th March, 1985, to which reference has already been made, rejecting his application.

The legal grounds on which the recourse is based, are the following:

(a) The sub judge decision is contrary to the correct interpretation of section 5, paragraph 3E of Part I of the Schedule to Law 64/78.

(b) The sub judge decision violates Article 28 of the Constitution.

By her opposition counsel for the respondent contended that the sub judge decision was lawfully taken by the respondent in accordance with the Motor Vehicles and Road Traffic Laws and Regulations and on the basis of all relevant facts and circumstances of the case.

Counsel for applicant in his address simply repeated his legal grounds without advancing any argument in support of them.

Counsel for respondent, on the other hand, contended that the words «first registered» cannot be construed in any way other than first registered in Cyprus and that reading the law and the relevant regulations as a whole, no other meaning can be attached to such words.

The whole case turns on the construction of paragraph 3E(1) (a) of Part I of the Schedule to Law 64/78

The circulation fees in respect of licences for private motor-vehicles are those prescribed under paragraph 2B(1) of Part I of the Schedule

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Paragraph 3E(1) (a) of Part I of the Schedule as amended by Law 64/78, provides that

«(E) (1) Το τέλος, το πληρωτέον δι' άδειαν ιδιωτικού μηχανοκινήτου οχήματος, δυνάμει της παραγράφου 2(B) (1) του Μέρους Ι του παρόντος Παραρτήματος:

(α) μετά πάροδον πενταετίας από της 1ης Ιανουαρίου του έτους, καθ' ο το τοιούτον όχημα το πρώτον ενεγράφη, θα είναι το ποσόν το καθοριζόμενον εν τη τοιαύτη παραγράφω δια το τοιούτον όχημα, μειωμένον κατά είκοσι πέντε επί τοις εκατόν (25%).»

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And in English

«The fee which is payable under paragraph 2(B) 1 of Part I of the present Schedule for the licence of a private motor vehicle

(a) after the lapse of five years from the 1st of January of the year in which such vehicle was first registered, shall be the amount which is prescribed in such paragraph for such a vehicle, reduced by twenty-five per cent (25%)»

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Reading the provisions of the law and the said Schedule and also the regulations made under the provisions of the law, no doubt arises in my mind that the unqualified use of the words «registration» or «registered» in the Motor Vehicles and Road Traffic Laws can only be taken to refer to registration under the provisions of the said laws and the regulations made thereunder. Had the intention of the legislature been that the words «first registered» should include any previous registration abroad, express words to such effect should have been used. Where the legislator intended to refer to «registration of a car abroad» or «first registration», words to that effect had been used. In particular, in Regulation 4(2) (a) (i) in computing the age of a vehicle, express reference is made to first registration in any country. Such regulation prohibits the registration of a private vehicle which is imported in the Republic as used,

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if «... on the date of its arrival in Cyprus it is aged over 24 months, counting from the date on which the vehicle was first registered as new in any country or if not registered from the date when this was first purchased as new .....».

5 Bearing in mind the object of the provisions of the Motor Vehicles and Road Traffic Laws and the Regulations, I find that such laws were enacted for the purpose of regulating the registration and circulation of motor vehicles in Cyprus.

10 Having concluded as above, I find myself unable to accept the contention of counsel for applicant that when reference is made to the date of registration of the car such date should refer back to any registration other than the one effected in Cyprus under the provisions of the relevant laws.

15 No argument has been advanced by counsel for applicant as to the violation of Article 28 of the Constitution and therefore, I consider such ground as abandoned.

For all the above reasons this recourse fails and is hereby dismissed. It is with great reluctance that I have decided to make no order for costs.

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*Recourse dismissed.  
No order as to costs.*