

[NETTLETON, C.J. AND GRIMSHAW, P.J.]

PANAYI CHRYSAFI HAJI NICOLA

v.

ANTONI HAJI DEMETRI

ELENI LOIZOU

AND

ANNA PETROU YEORGHIADOU

Ex parte Respondent.

FRAUDULENT TRANSFER—LAW 7 OF 1886, SEC. 3 (2).

The facts are as follows :—

The plaintiff commenced his action on the 23rd August, 1923, and recovered judgment against the defendants on the 3rd November, 1923. In August, 1924, defendants transferred their property gratis to their daughter-in-law, the respondent. The plaintiff applied to set aside the transfers as fraudulent under the Fraudulent Transfers Avoidance Law, 1886. Defendants and ex parte respondent raised a preliminary objection on the ground that the transfer complained of was not made "within one year next before the commencement of the action."

The District Court held that the objection failed.

From this finding the defendants and ex parte respondent appealed.

For Appellants (defendants) *Loizou*.

For Appellant (ex parte respondent) *Saveriades*.

For Respondent (plaintiff) *N. Paschalis and Hajipetrou*.

Judgment: We find that *Haralambo Nicolaidis v. Savides* was rightly decided, and that we are bound by it. Law 7 of 1886, section 3, sub-section 2, in its provision as to time is over-ruling and the wording is as clear as it is peremptory.

The transfer to be set aside must have been made within one year next before the commencement of the action. This condition is not present in the case before us. The preliminary objection in the Court below must be supported and the appeal allowed with costs.

NETTLE-
TON,
C.J.
&
GRIM-
SHAW,
P.J.
1925
February 27