to the provisions of the immediately ensuing section that the Court may before one year has expired order that the writ shall remain in force. The construction I place upon these two sections is that the legislature saw fit to provide that in a particular contingency a writ of execution for the sale of immovables if not renewed by the Court should cease to have effect at the expiration of a year. I am unable to read the sections as implying that every writ of execution remains in force for one year only. If my interpretation of these two sections is correct it follows that rule 16 in so far as it goes beyond the provisions of section 23 of the Civil Procedure Law of 1885 is *ultra vires*. In the present case the contingencies specified in that section had not happened, and it follows that rule 16 of Order XVIII so far as it is sought to apply it to these two writs of execution is void.

For the reasons given, I think, this appeal should be allowed and the judgment of the lower Court reversed with costs in favour of Tahsin here and below.

Appeal allowed.

[STRONGE, C.J., AND THOMAS, J.]

POLICE

v.

PAUL CSAPO.

(*Criminal Application No.* 31/37.)

Cyprus Criminal Code, Section 162 — *Charge of "publicly" committing an Act of Indecency under a Section prohibiting the committing of Acts of Indecency in a "Public Place" — Requirements of Clause* 82 *of the C.C.J.O.*, 1927, *in regard to Form of Charge for an Offence committed in a Public Place.*

The appellant was charged on a summons which stated that he "on or about the 22nd August, 1937, at Nicosia did publicly commit an act of indecency". The charge was laid under section 162 of the Cyprus Criminal Code, 1928, which prohibits the committing of any act of indecency in a public place. The evidence against him was to the effect that, as he was at his window or on the balcony of the house, he wilfully exposed himself to some children passing by. He was convicted of the charge as laid, and appealed by way of an application for the statement of a case under section 23 of the Courts of Justice Law, 1935.

(Nicosia Criminal Case No. 3276/37).

H. Ioannides for appellant:—

The charge as laid does not state any offence; for section 162 of the Code says the indecent act must be committed in a *public place*, and section 5 distinguishes between *public place and publicly*. In this case the appellant was in private premises. Further, the summons should, pursuant to clause 82 of the C.C.J.O., 1927, specify the public place by name and the particular act of indecency complained of.

S. Pavlides, Crown-Counsel, for respondent:

I agree that the public place should be specified in the summons and do not support the form in which the charge

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was framed in this case. Section 162 provides for indecency in a *public place*. A charge stating that the indecency was committed *publicly* discloses no offence. The corresponding provisions of the Palestine Criminal Code (section 160 of Ordinance 74 of 1936) led support to the appellant's case.

The judgment of the Supreme Court decided—

(1) That no offence had been charged in the summons;

(2) That the evidence had only established indecent exposure "publicly" and not "in a public place"; and

(3) That the particular "public place" should, by reason of clause 82 of the C.C.J.O., 1927, be specified in the summons.

Appeal allowed: Conviction set aside.

1937. Nov. 5.

CHRISTODOULOS TSIGARIDES v. KYPRIS ELIA.

[STRONGE, C.J., AND THOMAS, J.]

CHRISTODOULOS TSIGARIDES

v.

KYPRIS ELIA

(*Appeal No.* 3603.)

Action upon judgment in Cyprus — Justifying circumstances.

Plaintiff brought an action on 23rd October, 1936, on foot of a judgment dated 10th December, 1921, with the object of preventing the prescriptive period of fifteen years specified in Article 1660 of the Mejellé from running out, in which action he claimed payment of the amount adjudged by the said judgment and the costs incidental to two writs of execution issued thereunder. The action was heard by a magistrate who dismissed it on the ground of *res judicata*, and the plaintiff appealed to the President of the District Court, who dismissed his appeal on the same ground. From this latter decision the plaintiff appealed to the Supreme Court.

Held, that an action upon a judgment obtained in Cyprus is permissible when there are justifying circumstances.

Appeal from the decision of the President of the District Court of Nicosia sitting on appeal from the decision of the Lefka Magistrate. (Appeal No. 2/37—Action No. 332/36.)

Charilaos Ioannides for appellant (plaintiff):

The cause of action in 1921 was a bond, whilst the cause of action now is the judgment obtained in 1921—a contract of record, which is a different cause of action. The judgment of 1921 created a new debt or obligation on which a new action lies. That judgment could not be satisfied by any means of execution down to the time when the new action was brought; but the new action is not a mode of execution: it is only an action of debt intended to keep alive the first judgment.

Phaedon Ioannides for respondent (defendant):

The new action is an attempt at execution of the 1921 judgment which is not permitted by law: section 13 of the Civil Procedure Law, 1885. The only modes of execution available are those provided by section 12 of that Law,