

CASES

DECIDED BY THE

SUPREME COURT OF CYPRUS

IN ITS ORIGINAL JURISDICTION AND ON APPEAL
FROM THE ASSIZE COURTS AND DISTRICT COURTS.

[CREAN, C.J., AND GRIFFITH WILLIAMS, J.]

MAYOR, DEPUTY MAYOR, COUNCILLORS AND TOWNSMEN
OF LEFKA, *Appellants,*

v.

SULEIMAN OMER, MOTOR CAR HIRER, OF LEFKA,
Respondent.

(Criminal Application No. 27/38.)

CARRYING ON BUSINESS WITHIN MUNICIPAL LIMITS WITH A CAR PURCHASED ON
HIRE-PURCHASE SYSTEM. THE MUNICIPAL CORPORATIONS LAW, 1930, SECTIONS
165, 167 AND 171.

The appellants prosecuted the respondent for failure to pay the municipal tax imposed on him by the Municipal Corporation of Lefka. The respondent admitted trading within the municipal limits, but raised the defence that he, having bought the car on hire-purchase system, was not the owner of the car with which he carried on business.

Magistrate Fehmi Bey found that he was not the owner of the car and dismissed the case. On the application of the appellants he stated the case for the opinion of the Supreme Court. (Case No. 997/37.)

HELD: *That the respondent was the proprietor of the car within the meaning of Schedule 9 to the Municipal Corporations Law, 1930, and was therefore liable to pay the municipal tax imposed on him.*

H. Ekrem for the appellants.

Respondent appeared in person.

The Judgment of the Court was delivered by the Chief Justice.

Judgment: CREAN, C.J.: It was admitted by the respondent that he had an office in Lefka and was hiring this car from there within that Municipality. But he raised the point in defence, that as he was not the owner of that car, he could not be carrying on business with it, and therefore was not guilty of contravening the sections of the Law under which he was charged.

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The learned Magistrate found as a fact that he was not the owner. And he did so on the oral evidence given and the hire-purchase agreement.

In our opinion such a finding was tantamount to finding that respondent was not the proprietor under the Law. This was a finding which we think was erroneous in law because it was admitted for the respondent that he held and used the vehicle for more than a year prior to these proceedings.

For the purpose of construing the meaning of "proprietor" in Schedule 9 to this Law we think—in the absence of a definition—that "proprietor" should be taken to mean the person by whom the vehicle is kept and used and over which he has exclusive control for the time being. The respondent, in our opinion, clearly came under this definition; therefore his only point of defence that he was not the proprietor was bad.

The learned Magistrate has made the case difficult by failing to set out the facts clearly on which he found, or to define concisely what was the point of law for decision by this Court. Consequently we have had to look at the evidence.

It has been held in the case of *British Railway Traffic and Electric Lighting Co. v. The C. R. C. Company, Limited and the London County Council*, 1922 K.B. 2, p. 260, that a hirer for 12 months is an "owner" within the meaning of the Road Vehicles Regulation and Licensing Regulations, 1924.

The respondent to pay £2 for Municipality licence.