

1953  
March 5

POLOU  
HAJI  
IOSSIF  
LIATSOU  
v.  
DIONYSIOS  
ZANNETOU.

[GRIFFITH WILLIAMS, J., AND ZEKIA, J.]

(March 5, 1953)

POLOU HAJI IOSSIF LIATSOU, *Appellant,*

v.

DIONYSIOS ZANNETOU, *Respondent.*

(*Civil Appeal No. 3969.*)

*Registration of trees—Co-ownership—Immovable Property (Tenure, Registration and Valuation) Law, Cap. 231, sections 20 and 21.*

The owner of  $\frac{1}{3}$  share in carob trees standing on a certain plot of land owned also  $\frac{1}{21}$  share in the same land. She failed to register her share in the carob trees within two years after the coming into operation of the Immovable Property (Tenure, Registration and Valuation) Law, Cap. 231, the time appointed by the said law within which registration must be effected or rights lapse. Argued for the appellant that as she owned  $\frac{1}{21}$  share in the land she was not a stranger to it and that there was no necessity for the registration of her  $\frac{1}{3}$  share in the trees.

*Held:* By failing to register her  $\frac{1}{3}$  share in the carob trees within the time appointed by the said law appellant lost her  $\frac{1}{3}$  share in the said trees, but at the same time acquired  $\frac{1}{21}$  share in the trees by virtue of sec. 21 of the said law.

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A. *Liatsos* for the appellant.

A. *Emilianides* for the respondent.

The facts sufficiently appear in the judgment of the Court delivered by :

GRIFFITH WILLIAMS, J. : This is an appeal from a judgment of the District Court of Kyrenia on a preliminary legal point, as to the effect of the coming into force of the Immovable Property (Tenure Registration and Valuation) Law (Cap. 231), on the ownership of unregistered trees on land in which a part-owner of the trees had a different interest.

The plaintiff-appellant was prior to 1st September, 1946—the date on which the said Law came into operation—the owner of one-third share in certain carob trees situated in the locality Potimata within the area of Asomatos village on land held under registration No. 431—shown in Sheet plan 11/51 as Plots 76 and 77 hereinafter referred to as “the said land”. She also owned about a  $\frac{1}{21}$  share in the said land. Of the respondents Haralambos Zannetou is registered for an amount of approximately  $\frac{18}{21}$  shares in the said land. He is represented in this action by his father Dionysios Ch. Zannetou who has no share.

1953  
March 5  
POLOU  
HAJI  
IOSSIF  
LIATSOU  
v.  
DIONYSIOS  
ZANNETOU.

By section 21 (2) of the said Law any tree grafted or planted on land prior to the coming into operation of the Law is to be deemed the property of the owner of the land unless another person is registered as the owner thereof or being entitled applies for registration within two years of the coming into operation of the said Law. The carob trees in which the appellant claims a  $\frac{1}{3}$  share were not registered in anybody's name on the date the said Law came into operation, viz. 1st September, 1946, and since that date they have not been registered.

On these facts the District Judge held that by section 21 (2) of the Law, the ownership in the trees passed—as from the date on which the Law came into operation, namely 1st September, 1946—to the owners of the land on which they stood, i.e. the land held under registration 431, and that the owners of the land were entitled to equivalent shares in the trees as those for which they were registered in the land.

The appellant's counsel has argued before us that section 21 (2) cannot operate to oust the title of the appellant in the present case, because the object of the Law was to keep out strangers to the land from owning the trees on that land; and that anyone having any interest in that land might own the trees on it without any necessity for registration.

Our first comment on this argument is that there is nothing in the Law to suggest any such object in the minds of the legislature. The measure was passed for the simplification of the transfer and ownership of land, and from the Law itself it can be seen that it was intended to vest the ownership of the trees standing on land in the owner or owners of that land. This was not done to take effect immediately, but time was given so that there should be no hardship, and the first measure taken was to allow anyone claiming ownership in trees to register his title within two years from the coming into operation of the Law or he would lose his right to do so. Other provisions as regards getting the trees standing on land into the same ownership as the land were included in the Law, but the first step was to make registration compulsory if title to the trees was to be established adverse to the owner of the land. This clearly was the object of section 21 (2) of the said Law; and nothing in the Law suggests that persons having a minor interest in the land on which the trees stood were to be excluded from its operation.

Now section 21 speaks only of the owner of land. But in the case before us the land belonged to several co-owners including the appellant and her husband, who both had a small interest in it. The rights of registered co-owners in the buildings, structures, trees or improvements to the land they own is governed by section 20 of the Law. It is as follows:—

“ Where any immovable property is held in undivided shares, all the registered co-owners shall be entitled, in

1953  
March 5  
POLOU  
HAJI  
IOSSIF  
LIATSOU  
v.  
DIONYSIOS  
ZANNETOU.

proportion to their respective shares, to—

- (a) any building or other erection or structure erected upon, or affixed to, the property ;
- (b) any tree or vine planted or any well sunk therein ;
- (c) any permanent improvement effected therein, whether erected, affixed, planted, sunk or effected by a co-owner or by any other person ”.

This section must be taken in conjunction with section 21. The effect of section 20 is to put co-owners in exactly the same position in respect of those things provided for in section 21, as is the “ owner ” spoken of in that section.

The learned District Judge has, in our opinion, misdirected himself as to the Law in holding that “ section 20 of the Law does not apply to trees already planted at the commencement of the Law ”—i.e. at the time of coming into operation of the Law. There is nothing in the section to limit its operation in time—and it clearly applies to the ownership of the trees in the present case, though the trees were planted long before the said Law came into operation. The effect of it is merely to put co-owners in the same position as the owner, and there is, therefore, no need to resort to the Interpretation Law to show that “ owner ” includes “ owners ”.

We are in agreement with the decision of the learned Judge that section 21 (2) applies in this case ; and that there having been no registration of the trees within two years from 1st September, 1946—the date of coming into operation of the said Law—the trees must be deemed the property of the owner of the land from the date of the coming into operation of the said Law. The land being in fact the property of a number of co-owners, their rights in the trees *inter se* are governed by section 20 of the said Law. Under this section if the appellant is entitled to 1/21 share approximately in the land, her share in the ownership of the trees will be the same.

*This appeal must therefore be dismissed with costs.*