

opposite effect, shewing that there is a class of Cadis who have such jurisdiction, and that it is not the Cadis of Sandjaks ; and we must hold that the Cadi of Cyprus has no right to entertain appeals against the decisions of Cadis of Cazas.

It is necessary for the ordinary civil courts to entertain this question, as the duty of putting the judgments of Cadis into execution is cast upon them by the Civil Procedure Amendment Law, 1885.

*Appeal allowed.*

BOVILL,  
C.J.  
&  
TEMPLER,  
ACTING J.

EMINE  
HANOUM  
MUSTAPHA  
v.  
HAFUZ  
MEHMET  
EMIN.

[BOVILL, C.J. AND SMITH, J.]

ANASTASIA M. CHAKALLI

*Plaintiff,*

v.

AHMET HOULOSSI, AS DELEGATE OF

EVKAF

*Defendant.*

BOVILL,  
C.J.  
&  
SMITH, J.  
1892.

March 18.

VAKOUF—MAZBUTA VAKOUF PROPERTY HELD BY IDJARETEIN  
—EXTENSION OF INHERITANCE—LAW OF 4 REJEB, 1292—  
REGULATION OF 2 ZILKADE, 1285.

M., the owner of a garden held by idjaretein and forming part of a Mazbuta Vakouf, died leaving issue who succeeded to the property. M. had never applied for or obtained an extension of the right of inheritance to this property. K., a daughter of the deceased, who had succeeded to a share in the property, died without issue, and the plaintiff, her mother, claimed K.'s share.

HELD: That inasmuch as M. had not obtained an extension of the right of inheritance, the plaintiff was not entitled to succeed to K.'s share as her heir, but that K.'s share had become Mahloul.

APPEAL from the District Court of Nicosia.

Action to restrain the defendant from selling a certain share in a Mulk property alleged by him to be Mahloul.

BOVILL,  
C.J.  
&  
SMITH, J.  
--  
ANASTASIA  
M. CHAKALLI  
v.  
AHMET  
HOULOSSI.

The facts, which were not disputed, were that Michail Chakalli died possessed of certain Vakouf (*idjaretein*) property which on his decease devolved upon his children. One of the children, Kharitini, having subsequently died, her share was claimed by the Evkaf authorities as Mahloul, and put up for sale. The plaintiff, the mother of Kharitini, claimed the property, and brought this action to restrain the sale by the Evkaf authorities. The District Court dismissed the action on the ground that no steps had been taken by M. Chakalli to extend the inheritance, and as Kharitini had died unmarried and without issue, her mother was not entitled to succeed her and the property had become Mahloul.

The plaintiff appealed.

*Pascal Constantinides* for the appellant :

The law regulating the succession to these Vakouf properties is dated 4 Rejeb, 1292, [Leg. Ott., Vol. V., p. 251], which repeals the former law. The defendant contends that, unless certain formalities have been complied with, the heirs of a deceased person cannot take the benefit of a law which has extended the right of inheritance, and the regulations of 15 Zilkadé, 1292, are relied on : but we cannot deduce from these regulations that the rights given under the law are to be annulled. I see nothing in the law about an application to extend the right of inheritance. It may be that the heir of a deceased person has a right by payment of an increased idjare-muedjele to extend the inheritance.

*Lascelles* for the respondent :

In order to understand the law it is necessary to refer to laws repealed by that of 4 Rejeb, 1292. Up to the year 1284, only the children of the owners of such idjaretein properties as this could succeed on the death of their parents. In that year the right of inheritance was considerably extended by the law of 7 Sepher, 1284, and under the regulations of 2 Zilkadé, 1285, the owners of such properties had to apply for the extension of the right of inheritance and to pay increased idjare-muedjele. The law of 7 Sepher, 1284, was not obligatory. Then came the law of 4 Rejeb, 1292, which repealed the law of 7 Sepher, 1284, and the regulation of 2 Zilkadé, 1285, extended the right of inheritance compulsorily, and provided for the

payment of an increased idjare-muedjele. This was felt to be a hardship, and the Regulation of 15 Zilkadé, 1292, was promulgated, again making the extension of the right of inheritance optional. It is not contended in this case that Michail Chakalli ever applied for an extension of the right of inheritance or that it has ever been extended. The right of inheritance must be extended by that holder of the property who wishes it to be extended; and if not done, a collateral heir cannot come in and say I will now extend it.

BOVILL,  
C.J.  
&  
SMITH, J.  
—  
ANASTASIA  
M. CHAKALLI  
v.  
AHMET  
HOULOSSI.  
—

*Judgment*: This is an appeal from the District Court of Nicosia, which has decided that the plaintiff cannot compel the Evkaf authorities to give her the benefit of the law extending the right of inheritance of Vakouf properties, she being the mother of a deceased owner of a Mazbuta Vakouf, who has died without issue, and without the formalities necessary for extending the right of inheritance having been complied with.

July 6.  
—

The plaintiff contends that the law of 4 Rejeb, 1292, extending the right of inheritance, is unconditional, and that upon the death of an owner of a Mazbuta Vakouf held by idjaretein, his heirs, as defined in that law, have a right to enter into possession of the property. The District Court have decided in opposition to that view, and have held that this law was never more than an optional law, which could be taken advantage of by an owner of a Mazbuta Vakouf property held by idjaretein who had no issue, and who might desire that his property should descend to his other nearest relatives.

The defendant relies on a Vizierial order dated 15 Zilkadé, 1292, by which he says that although the law of 4 Rejeb, 1292, might have been compulsory when it was published, it was subsequently made optional.

We are of opinion that the meaning of this Vizierial order is unmistakeable. It says, in effect, that a compulsory alteration in the law of tenure of property is not just, and that from the 15th Zilkadé, 1292, the extension of the right of inheritance shall cease to be compulsory. It appears to us to follow from this, that the Evkaf could not insist on the increased rents authorised to be taken by the law

BOVILL, of 4 Rejeb, 1292, being paid, but any owner could make  
 C.J. the property subject to the new law of succession by  
 & SMITH, J. arranging for the payment of the increased rent, and until  
 ANASTASIA provision was made for such increased rent being paid,  
 M. CHAKALLI the Vakouf property followed the old law of succession.

v.  
 AHMET  
 HOULOSSI.

Under such circumstances, when the owner of Mazbuta Vakouf held by idjaretein should die without the right of inheritance to such property having been enlarged, the old law would apply, and we are of opinion, therefore, that the plaintiff's contention cannot prevail.

It is not suggested to us that the plaintiff has any right save under the law of 4 Rejeb, 1292, and as our opinion is that she has no right under that law, we are unable to give effect to the claim she makes in this action.

*Appeal dismissed.*