The Defendant's evidence is to the effect that on one occasion the rent was raised and does not shew that the rent was fixed for any ascertained period other than the period since 1874.

Therefore there is no evidence of custom to treat the rent as unalterable. If there is any ancient custom it would seem rather to be a custom under which the Plaintiffs have a power to raise the rent. The fact that the rent has been the same since 1874 would hardly be sufficient to prove an ancient custom.

The Defendant has failed to prove that the See is entitled to hold the land at any fixed rate of rent.

The Defendant continued to hold the property after 1896, and in the absence of any fresh agreement he must be taken to hold it at the same rent as he paid before 1896.

For these reasons I am of opinion that the appeal must be dismissed and the judgment affirmed.

[HUTCHINSON, C.J. AND TYSER, J.]

HAJI SALIH MIHTAT, *Plaintiff,*

v.

DIAMANTOU LOIZA, *Defendant.*

MULK LAND—DOUBLE REGISTRATION—RIGHTS OF REGISTERED OWNERS.

A prior registration is not necessarily superseded by a registration of later date.

Where two persons are registered as owners of the same land, if the prior registration is properly made, and the later registration is made on a ground which is proved to have been untrue, the prior registration is not superseded by the later registration.

This was an appeal of the Defendant from a judgment of the District Court of Limassol.

The Plaintiff sued as Muteveli of the Kilani Mosque and his claim was for an order to restrain the Defendant from interfering with a phrakte at Kilani.

The Defendant claimed that the phrakte washers, and relied on a kochan which shewed that she was registered on the 12th May, 1903 (*i.e.*, A.D. 1877), as owner of a house with boundaries which certainly included the phrakte.

The District Court directed that the registration of the Defendant should be set aside, and granted the injunction claimed.

It appeared from the evidence that about 1877, the Defendant's husband verbally agreed with Molla Rejeb, the then owner of the phrakte, to buy it for 800 piastres:

HUTCHINSON, C.J. & TYSER, J.

HJ. SALIH MIHTAT v. DIAMANTOU LOIZA

That the Defendant or her husband paid 108 piastres on account, and that the balance had never been paid: and

That at the Yoqlama in 1877, after the agreement for purchase, the Defendant was registered as stated above.

There was evidence that shortly afterwards Molla Rejeb purported to dedicate verbally the phrakte to the Kilani Mosque.

Nothing was done to carry out the dedication legally or to cancel the Defendant's registration.

Ever since that time, that is, since about 1878 or 1880, there had been constant disputes about the ownership of the phrakte, and neither party proved any continuous occupation or possession of it.

In May, 1891, the Plaintiff's registration was effected, on the ground (as stated in the kochan) of length of possession.

Laniti for the Appellant.

Pascal and *Frangoudi* for the Respondent.

The Court, after setting out the facts, gave judgment as follows:

June 3 *Judgment:* The events which we have thus narrated, do not, in our opinion, give the Plaintiff any right to have the Defendant's registration set aside.

It is true that the balance of the purchase money agreed to be paid 25 years ago is still unpaid. But there is nothing to show that the Defendant's registration in 1877, was wrongfully made, or that it was made without the knowledge of Molla Rejeb: and we must assume, unless the contrary is shown, that the registration was properly made. It was not therefore superseded by the registration of the Plaintiff in 1891, which purports to be made on the ground of length of possession by the Plaintiff: whereas it is plain that the Plaintiff could not then have had 15 years' uninterrupted possession.

In our judgment therefore the Defendant's registration is still in force and the Plaintiff has not shown that he is entitled to have it set aside, and the appeal should be allowed and the action dismissed with costs.

The case of *Rex v. Rebeka Theori and Dimitri Solomou* reported in pages 14–16 of the original edition is no longer of any importance.