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to its true value to apply to a Court for a stay of proceedings under the writ as to the property the highest bid for which was inadequate.

If there were no other enactment the debtor would be able to, and would have to, prove the inadequacy of the bid by such evidence as would be admissible to prove any other fact.

Section 6 of the Law enables the debtor to prove that the bid is inadequate by shewing that it is less than one-third of the value of the property in the verghi register, unless the Plaintiff proves that the value in such register is too high.

This section enables the Defendant to use as proof the register which would otherwise not be admissible as evidence, but it does not preclude him from producing other evidence.

Appeal dismissed with costs.

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

JOSEPH CIRILLI & SONS, *Plaintiffs,*

v.

PARASKEVOU DEMETRI AND ANOTHER, *Defendant.*

MEJELLE, ARTICLES 1660, 1613, 1786, 1787—APPLICATION FOR WRIT OF SALE OF IMMOVEABLE PROPERTY—LAPSE OF FIFTEEN YEARS AFTER DATE OF JUDGMENT.

Where no steps in Court or elsewhere had been taken since judgment, an application for a writ of sale of immoveable property, made more than fifteen years after the date of the judgment, was refused.

This was an appeal by the Plaintiffs from the decision of the District Court of Larnaca dismissing an application for a writ of sale of certain immoveable property of the Defendant in execution of the Plaintiffs' judgment.

The judgment was dated 9th December, 1887.

The application was made on the 28th July, 1904, being more than fifteen years after the date of the judgment. No proceedings in Court were taken by the Plaintiffs after the judgment before this application was made.

Certain applications were made to the Land Registry Office prior to the application for the writ of sale to enable the Plaintiffs to proceed to execution of their judgment, but these applications were more than fifteen years after the date of the judgment.

Euthymiades for the Applicants.

Rossos for the Respondent.

Euthymiades: Art. 1660 does not apply. An application for a writ of sale is not a dawa. A judgment debt is not a "deyn." It is a hukm, Mejellé, 1786. He cited Mejellé, Arts. 1613, 1666, 1674.

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JOSEPH CIRILLI & SONS v. PARASKEVOU DEMETRI

Rossos : Deyn includes judgment debt. Dawa includes any application before the Court.

Judgment : This is an appeal by the Plaintiffs from the decision of the District Court of Larnaca, dismissing the Plaintiffs' application that the interest of the Defendant Paraskevou Demetri in certain immoveable property should be ordered to be sold in execution of a judgment of that Court dated 9th December, 1887.

The application was made on the 28th July, 1904, and was dismissed by the District Court (Mr. Palaeologos dissenting) on the ground that it was barred by Art. 1660 of the Mejellé.

Art. 1660 so far as it is material is in the following terms: " Claims " (dawaler) which do not affect property included in that originally made " vaqf, or the public, such as claims (dawaler) for debt (deyn), etc., after " being abandoned for fifteen years are not heard."

It was contended on behalf of the Plaintiffs that an application for a writ of sale of immoveable property was not a claim (dawa) within the meaning of the law, and that a judgment debt was not such a debt as would be denoted by the term " deyn."

We will first consider the meaning of the term " dawa." It is defined in Art. 1613 of the Mejellé as follows: " Dawa means one person " claiming his right before a Judge from another."

This definition is large enough to include the application for the writ of sale of immoveables.

The term " dawa " moreover has been used in the Turkish Law about the sale of immoveable property for debt as denoting an application for the sale of immoveable property for debt. (*See* Art. 6 of the Law 15 Sheval, 1288).

We are therefore clearly of opinion that the term " dawa " includes an application for the sale of immoveable property.

It remains to consider whether the term " deyn " as used in Art. 1660 includes a judgment debt.

It was contended for the Applicants that a judgment debt was a judgment (hukm) as defined in Art. 1786 of the Mejellé.

This is a mistake. The term "hukm" means the deciding by the Judge. The thing given by the judgment to the Plaintiff is called " mahkyum bih " in accordance with the definition contained in Art. 1787 of the Mejellé.

In the Turkish Law for the sale of immoveable property for debt, the word " deyn " is used for the word debt, and in Sec. 1 of that Law it is enacted that the " deyn " for which the immoveable property can be sold must be a " mahkyum bih."

It seems clear therefore that the word " deyn " will include a judgment debt.

We see nothing in Art. 1660 of the Mejellé to limit the meaning of those terms as used in that section and we are therefore of opinion that the decision of the Court below was right, and that the judgment debt claimed by the Applicants was a " deyn " within the meaning of Art. 1660 of the Mejellé and that the application for the writ of sale of immoveable property was a " dawa " within the meaning of that article.

Some mention was made in the course of argument of applications made to the Land Registry Office, prior to the application for the writ of sale, for the purpose of enabling the Plaintiffs to proceed to execution of their judgment by sale of the immoveable property of the debtor.

As it was admitted that no such application was made until after fifteen years had elapsed since the judgment was given, those applications cannot affect this case.

We say nothing as to what would be their effect if made before the fifteen years had elapsed.

Appeal dismissed.

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

OLYMPIAS PERISTIANI AND OTHERS, *Planitiffs*,

v.

ONOUFRIOS J. JASSONIDES, *Defendant.*

SALE UNDER THE TITHE AND TAX COLLECTION ORDINANCE (NO. XIV. OF 1882)—DEFAULT OF PURCHASER—LIABILITY OF PURCHASER TO PERSON INJURED—LAW X. OF 1885.

Property under mortgage was sold for a Government debt under the Tithe and Tax Collection Ordinance, 1882. The mortgagee consented to the sale and the order directed that any surplus realised by the sale after the payment of the Government debt should be paid to the mortgagee.

The purchaser failed to carry out his purchase and there was a loss on the resale of the property.

HELD: *that the mortgagee was entitled to recover from the purchaser at the sale the loss he had sustained by reason of the sale not being carried out.*

APPEAL of the Defendant from the judgment of the District Court of Limassol.

The claim was to recover the Plaintiffs' share of the difference between the amount bid by the Defendant for certain property bought by him at a forced sale under the Tithe and Tax Collection Ordinance 1882, and the amount realised at a subsequent sale, rendered necessary by the Defendant's refusal to carry out his contract.