

The power to admit to bail is given by Secs. 107, 108 and 109 of the Cyprus Courts of Justice Order, 1882. By Sec. 108, "Every person charged with any offence except high treason or murder, who can find sureties sufficient in the opinion of the Court to secure his appearance when it is required, may be bailed at any stage of the proceedings, if in its discretion the Court thinks proper to bail him."

And by Sec. 109 "when the preliminary enquiry is finished the accused may be admitted to bail or set at liberty on his own recognizance."

And the last sentence of Sec. 108 says that "Any person charged with any offence other than high treason may be admitted to bail by order of the Supreme Court."

These provisions give the Magistrate an absolute discretion as to granting or refusing bail; and they also give the Supreme Court an unlimited power to bail in every case.

In the present case the Magistrate neither admitted to bail (for he refused to accept any surety), nor set the accused at liberty on their own recognizances, but committed them to prison unless they should deposit £20 in Court; which they say is equivalent to refusing bail.

The first and principal object of these provisions of the Order in Council is to ensure that the accused who has been committed for trial shall appear at the time and place appointed for the trial and take his trial. But the Magistrate may have other good reasons for refusing bail besides the fear that the accused will not appear at his trial. And when a Magistrate has in his discretion (which of course he must exercise reasonably and judicially) refused bail, this Court ought not to interfere except for very strong reasons. If the Magistrate should tell us that he had no objection to bail being allowed, and the King's Advocate did not oppose, we should naturally allow it. But in the present case, having heard the Magistrate's reasons, we think we ought not to interfere.

*Appeal dismissed.*

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

KING'S ADVOCATE,

v.

SOLOMO LOIZO AND ANASTASIA SOLOMO, Defendants.

LAND CODE, ART. 31—ARAZI MIRIE—PERMISSION TO BUILD—ADDITION TO BUILDINGS.

*Where the mutassarif of Arazi Mirie has obtained permission to build and has erected the buildings for the erection of which leave was given, he cannot add to those buildings without obtaining a fresh permission.*

This was an appeal of the Plaintiff from the judgment of the District Court of Nicosia.

The facts were as follows:—

In 1898, the Defendant Solomo Loizo, being registered owner of Arazi Mirie, obtained a permit from the Commissioner of Nicosia to erect two rooms and a veranda on the land, and erected them.

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&  
TYSER, J.  
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Plaintiff,

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HUTCHIN-  
SON, C.J.  
&  
TYSER, J.

—  
KING'S  
ADVOCATE  
v.  
SOLOMO  
LOIZO  
AND  
ANASTASIA  
SOLOMO  
—

Solomo afterwards sold part of this property to the Defendant Anastasia, who was his daughter. Anastasia obtained registration of her part, and in her qochan it was described as a "house and yard" and the quantity was stated to be one room and a veranda.

This qochan was in English on one side and in Greek on the other; on the English side, which was signed by the officials of the Land Registry Office, the land was said to be Arazi Mirie, and on the Greek side, which was unsigned, it was said to be Mulk.

After she had obtained her qochan the Defendants proceeded to build on Anastasia's land without obtaining any permit from the Government.

The claim in the present action was for an order upon the Defendants to remove the new building erected without leave, the Plaintiff alleging that its erection was in contravention of Art. 31 of the Land Code.

The District Court dismissed the action.

*G. G. Amirayan* for the Appellant.

*A. K. Artemis* for the Respondent Anastasia, argued:

That the land was described as mulk in the qochan and that the Defendants were entitled to build; that the ground built on was the yard of the house and therefore mulk; that if a person obtains permission to build on Arazi-Mirie, and builds accordingly, he may afterwards put up other buildings on it without fresh permission.

*Judgment*: No application has been made to amend Anastasia's qochan; and there is no evidence from which we can gather that the description of the ground in her qochan as Arazi-Mirie is a clerical error. It is necessary therefore to hold that her ground is Arazi-Mirie; and following the decisions of this Court in other cases, (see *King's Advocate v. Pieri Petrides' heirs*, C.L.R. vi., 94, 96,) we must decide that she cannot build on it without permission from the Government. That permission she has not obtained.

There is plenty of evidence that the other Defendant has taken part and assisted Anastasia in the erection of the new building.

The judgment appealed from must therefore be set aside and an order made restraining the Defendants from building on the property mentioned in the registration of the Defendant Anastasia, No. 2003 and dated the 30th November, 1904, and restraining the Defendant Anastasia from permitting any building to remain erected within the boundaries mentioned in her said registration other than the buildings for the erection of which she has obtained a permit from the Government.

Defendants to pay costs in both Courts.

*Appeal allowed.*

1906

Jan. 6