

Under Sec. 80 of the Law X of 1885 the Court may issue writs or make orders, but has no authority to give judgments or make declarations of right.

The application must therefore be refused.

Probably however if the Applicant takes the Qadi's Ilam and a copy of this judgment to the Land Registry Office, effect will be given to the Ilam.

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

MUSTAFA
SHEFKI EFF.
v.
REBIA
HANUM
AHMED
RASHID

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

HAJI YANKO NICOLAIDES,

Plaintiff,

v.

ELENE NICOLA KOTIRI,

Defendant,

AND

ELENE NICOLA KOTIRI AND OTHERS

Plaintiffs,

v.

HAJI YANKO NICOLAIDES,

Defendant.

HUTCHIN-
SON, C.J.
&
TYSER, J.
1906

Jan. 4

IMMOVABLE PROPERTY—DOUBLE REGISTRATION—ESTOPPEL.

The owner of land duly registered is entitled to that land, although there may be a second registration for that land, unless, by reason of something he has done or otherwise, he is estopped from asserting his right.

Appeal from the judgment of the District Court of Nicosia.

These were two actions which were heard together. The following are the facts:—

In 1277 one Constanti Petri was registered for a piece of land as Arazi Mirie.

In 1292 Christofi Constanti, the son of Constanti Petri, was registered at the Emlak Yoqlama for part of the same land, as a garden.

No amendment was made in the registration of Constanti Petri.

It appeared from the evidence that this garden had been given before 1292 by the father to the son on his marriage.

There was also evidence that the trees of the garden were no longer in existence.

In 1900 under an order of Court the land for which Constanti Petri was registered as above stated was sold and was purchased by one Nicola Haji Yanni.

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

HAJI YANKO
NICOLAIDES
v.
ELENE NI-
COLA KOTIRI

Afterwards Nicola Haji Yanni died and the Plaintiffs in the second action were his wife and children, who claimed the land as the heirs of Nicola Haji Yanni, and the Defendant in the first action was the wife of the deceased Nicola Haji Yanni.

In 1901 the property of Christofi Constanti was sold under an order of the Court and the garden above mentioned was purchased by Haji Yanko Nicolaides, who is the Plaintiff in the first action and the Defendant in the second.

The question to be tried was whether the garden belonged to the Plaintiff in the first action, or to the Plaintiffs in the second action as heirs of Nicola Haji Yanni.

Nicola Haji Yanni was registered for the land in 1900 and Haji Yanko Nicolaides was registered for the garden in 1901.

The District Court gave judgment for the Plaintiff in the first action, and the Plaintiffs in the second action appealed.

Kyriakides for the Appellant.

Theofani Theodotou for the Respondent.

Jan. 4

Judgment: CHIEF JUSTICE: The registration in the name of Christofi Constanti was a valid registration, and the old one of Constanti Petri, through whom Elene claims, ought to have been amended or cancelled and a new document of title issued to Constanti Petri. Christofi cannot be held responsible for this. The registration therefore in Haji Yanko Nicolaides' name must prevail.

TYSER, J.: It is clear that, if there were no question of registration, the real title to the garden was in Christofi Constanti. It was given to him by Constanti Petri and he was registered for it. Subsequent to his purchase Haji Yanko Nicolaides has all the right which Christofi Constanti had at the time of the sale.

The real question is whether, as the original registration in the name of Constanti Petri remained and Nicola Haji Yanni bought the land under that registration, Christofi Constanti would if he were alive be debarred from asserting the title which he really would have to the property.

Christofi Constanti was registered at the time of the Emlak Yoqlama, and one has heard sufficient of the way in which the Yoqlama was made to know that it cannot be imputed to the negligence or fault of a newly registered person if the previous registration of the Arazi Mirie was not amended. Certainly there is no evidence of any default on the part of Christofi Constanti in this respect.

If a person is the owner of property and is duly registered, he is entitled to assert his right unless by reason of the way in which he has acted or otherwise he is estopped from asserting his right.

It is not necessary to say now what will amount to an estoppel. I am clear that there is no estoppel in this action.

Appeal dismissed.