

[BERTRAM, ACTING C.J. AND MACASKIE, ACTING J.]

PAPA NIKODEMO OIKONOMO

v.

BASILI HAJI PETRI.

BERTRAM,
ACTING
C.J.
&
MACAS-
KIE,
ACTING
J.
1910

July 15

CIVIL PROCEDURE—ACTION ASSERTING TITLE TO IMMOVEABLE PROPERTY—SALE OF
PROPERTY BY PLAINTIFF AFTER ISSUE OF WRIT—RIGHT TO CONTINUE ACTION.*The object of an action is to ascertain the rights of the parties at the date of the issue of the writ.**Consequently a Plaintiff who, in the assertion of his title to immoveable property, has commenced an action to restrain the Defendant from interfering with it, is not debarred from continuing the action by the mere fact that he has sold the property since the issue of the writ.*

This was an appeal from an interlocutory order of the District Court of Nicosia.

The writ in the action was issued on February 1st, 1901. The claim in the writ was for an injunction to restrain interference with immoveable property. The title to the property was in dispute between Plaintiff and Defendant, the question being a question of competing gochans.

Many adjournments took place, generally on the application of the Defendant, the Plaintiff remaining in possession.

On February 20th, 1908, Plaintiff sold the land to a purchaser, and as the Defendant still asserted title to the property, the purchaser commenced an action against him before the Village Judge. In this action the Defendant raised the objection that the question was still *sub judice* in this action. The Village Judge thereupon adjourned the case.

The Defendant thereupon set down the action for trial, and when it came on for hearing raised the preliminary objection that the case could not proceed, as the Plaintiff was no longer owner of the land in dispute, and had consequently no right to challenge Defendant's interference.

The District Court allowed the objection.

The Plaintiff appealed.

Panagides for the Appellant.

Joannides for the Respondent.

The Court allowed the appeal.

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Judgment: This appeal must be allowed. The object of an action is to ascertain the rights of the parties at the date of the issue of the writ. A person whose title to land is challenged, may still require to vindicate his title, even after he has sold the land, as he may be responsible to his purchaser. If he has commenced his action before the sale he is entitled in spite of the sale to have the issue determined.

The interval that has elapsed in this case is no doubt unusually long, but that does not affect the principle.

The case must go back to be tried. It may be a question in the Court below whether the purchaser ought not to be joined as a party.

Appeal allowed.