

1965
Feb. 12

[VASSILIADES, MUNIR, JOSEPHIDES, JJ.]

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MYROFORA
SPANOU
v.
ERATO
SAVVA

MYROFORA SPANOU,
Appellant-Defendant,

v.

ERATO SAVVA,
Respondent-Plaintiff.

(Civil Appeal No. 4486)

Immovable Property—Immovable Property (Tenure, Registration and Valuation) Law, Cap. 224—Transfers of registration effected before and after the enactment thereof—Transfers effected before enactment of the Law rightly determined by the trial Court upon the Law in force at the time of such transfers, i.e. the “ Old law ”—Old Law correctly applied.

The is an appeal from the judgment of the District Court of Nicosia in an action between the owners of two neighbouring plots of land, regarding the boundary dividing their respective properties, and is concerned with transfers of registration effected after the enactment of the Immovable Property (Tenure, Registration and Valuation) Law, 1946 now Cap. 224 ; and the case was decided on certain provisions of that statute. This appeal is concerned with transfers effected prior to the enactment of Cap. 224, which the trial Court determined upon the law in force at the time of the transfer, *i.e.* the law as it stood before Cap. 224 came into force in September, 1946.

The appeal is made on the short and clear ground given in the appellant's notice which runs as follows :—

“ The holding of the trial Judge that a prescriptive right is transferable without registration is erroneous in law and it is contrary to the judgment of Civil Appeal No. 4393 (*Papa-Georghiou v. Komodromou* (1963) 2 C.L.R. p. 221) decided by the majority of the High Court of Justice of Cyprus on the 20th May, 1963.”

Held, (1) we are unanimously of opinion that the learned trial Judge was right in deciding this case on what he described in his judgment as the “ old law ”, which, we think, he correctly applied.

(2) Having reached this conclusion, we can dispose of this appeal without discussing the effect of the judgments in *Papa-Georghiou v. Komodromou*, (1963) 2 C.L.R. 221, which, as already stated, turned mainly on the provisions of the present law, the Immovable Property (Tenure, Registration and Valuation) Law, 1946.

(3) The appeal must, therefore, fail ; and is dismissed with costs.

Appeal dismissed with costs.

Cases referred to :

Rodothea PapaGeorghiou v. Antonis Savva Komodromou (1963)
2 C.L.R. 221.

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Appeal.

Appeal against the judgment of the District Court of Nicosia (Georghiou, D.J.) dated the 29th April, 1964, (Action No. 1612/60) whereby it was declared, *inter alia*, that a strip of land adjoining defendant's property belongs to plaintiff by prescription.

G. Constantinides, for the appellant.

C. J. Myrianthis, for the respondent.

The judgment of the Court was delivered by :

VASSILIADES, J.: This is an appeal from the judgment of the District Court of Nicosia in an action between the owners of two neighbouring plots of land, regarding the boundary dividing their respective properties.

The appeal is made on the short and clear ground given in the appellant's notice*. And, while on this point, we would like to commend the clarity, brevity and precision of the grounds upon which the appeal was based in this case. Unfortunately this cannot be said of most notices containing the grounds upon which cases reach this Court, in its appellate jurisdiction.

Very wisely, in our opinion, learned counsel for the appellant in this case did not challenge the findings of the trial Court, which, we may add, were amply justified upon the evidence.

The appeal was based mainly on the authority of a land-case decided in May, 1963, *Rodothea PapaGeorghiou v.*

*Note :—Ground in appellant's notice : " The holding of the trial Judge that a prescriptive right is transferable without registration is erroneous in law and it is contrary to the judgment of Civil Appeal No. 4393 (*Papa Georghiou v. Komodromou* (1963) 2 C.L.R. 221) decided by the majority of the High Court of Justice of Cyprus on the 20th May, 1963 "

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Antonis Savva Komodromou, (1963) 2 C.L.R. 221, specifically referred to in the grounds of appeal.

As pointed out in the course of the argument this morning, the subject-matter in that case were transfers of registration effected after the enactment of the Immovable Property (Tenure, Registration and Valuation) Law, 1946, now Cap. 224 ; and the case was decided on certain provisions of that statute. Here we are concerned with transfers effected prior to the enactment of Cap. 224, which the trial Court determined upon the law in force at the time of the transfer, *i.e.* the law as it stood before Cap. 224 came into force in September 1946.

We are unanimously of opinion that the learned trial Judge was right in deciding this case on what he described in his judgment as the "old law", which, we think, he correctly applied. Having reached this conclusion, we can dispose of this appeal without discussing the effect of the judgments in *PapaGeorghiou v. Komodromou* (*supra*) which, as already stated, turned mainly on the provisions of the present law, the Immovable Property (Tenure, Registration and Valuation) Law, 1946.

The appeal must, therefore, fail ; and is dismissed with costs.

Appeal dismissed with costs.