[TRIANTAFYLLIDES, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

CHRYSOSTOMOS NATHANAEL,

Applicant,

and

THE COUNCIL FOR REGISTRATION OF ARCHITECTS AND CIVIL ENGINEERS,

Respondent.

(*Case No.* 234/63).

Architects and Civil Engineers—The Architects and Civil Engineers Law, 1962 (*No.* 41 *of* 1962)—"*Architect by profession*"—*Recourse against Respondent's decision not to issue to Applicant a licence as an* "*Architect by profession*", *under section* 9 (1) (*A*) *of the Law—Applicant not estopped from pursuing recourse because in the meantime he obtained a licence as a building technician Class A, under section* 9 (1) (*B*) (*a*) *of the Law—Requirement of* "*adequate knowledge*" («ἐπαρκεῖς γνώσεις») *in section* 9 (1) (*A*) (*i*) *of Law—Applicant lacking in theoretical knowledge—Practical experience and theoretical knowledge both constituent elements of the requirement of adequate knowledge of the work of an architect laid down in section* 9 (1) (*A*) *of the law—Court not entitled to intervene as it cannot be held that the Respondent exercised its relevant discretion in a defective manner,* i.e. *contrary to law or in excess or abuse of powers.*

Administrative Law—Sub judice *decision of Respondent Council, refusing to Applicant a licence as an* "*architect by profession*" *under s.* 9 (1) (*A*) *of the Architects and Civil Engineers Law,* 1962 (supra)—*Not vitiated by reason that letter to Applicant giving reasons therefor was vague.*

Administrative Law—Council for Registration of Architects and Civil Engineers—Fact that documents placed before Respondent Council were misplaced and not produced before the Court does not lead to conclusion that they were not duly taken into account at the proper stage.

The Applicant in this recourse complained against the decision of the Respondent whereby he was refused a licence as an "Architect by profession" under s. 9 (1) (A) of the Architects

and Civil Engineers Law, 1962 (Law 41 of 1962). The argument in support of Applicant's case consisted of two main submissions namely (a) that the reasons given for the *sub judice* decision, in a letter to Applicant, dated the 19th October, 1963, are vague and insufficient ; and that (b) undue importance has been attributed by Respondent to what transpired at the interview of the Applicant by the Respondent on the 21st September, 1963, instead of Respondent deciding the issue of the adequacy of Applicant's knowledge of the work of an architect on the basis of the actual architectural work which the Applicant had been doing before the enactment of Law 41/62.

On the other hand counsel for the Respondent argued that the decision of the Respondent was properly open to it on the basis of the material before it and that furthermore the Applicant is estopped from pursuing any more the present recourse because after it had been filed he applied for, and obtained, a licence as a building Technician, Class A, under the provisions of section 9 (1) (B) (a) of Law 41/62.

Another point which has arisen during the proceedings was to the effect that certain plans which were subsequently submitted by Applicant in support of his application could not be traced by Respondent and produced before the Court and in this connection it was submitted on behalf of the Applicant that the Respondent did not take them duly into account before reaching the *sub judice* decision and thus such decision was taken without Respondent having duly considered all the relevant material.

Held, (I). On the question of the missing plans :

(1) It is clear from the material before the Court, and particularly from the evidence of the Applicant himself, that the said plans, which cannot now be traced, were placed before the Respondent at the Respondent's own request, because it wished to have before it more plans typical of the work which the Applicant had been doing in the past ; I cannot, therefore, infer, from the mere fact that they could not subsequently be traced, that they were not duly taken into account at the proper stage ; thus, the unknown fate of the plans in question cannot, in my opinion, influence, in favour of the Applicant, the fate of the present recourse.

Held, (II). On the question of estoppel.

(1) I cannot agree at all with counsel for Respondent on

this issue : According to the evidence of the Applicant, which I do accept on this point, he had applied for a licence as a Building Technician, Class A, as a means of being enabled to continue working while this Case was pending before the Court, and he did so in consultation with, and on the advice of, the then Chairman of the Respondent, Mr. N. Roussos ; so, no question of the Applicant having abandoned his claim for a licence as an " architect by profession " could be said to arise.

(2) Moreover, the very fact that the Respondent, in 1967, three years later, did re-examine, as aforestated, the case of the Applicant, in connection with his application for a licence as an " architect by profession ", shows beyond doubt that the Respondent itself did not think that Applicant had abandoned his claim to be licensed as an " architect by profession ", or that he was es opped from pursuing such claim because he had in the meantime obtained a less favourable to him licence as a Building Technician, Class A.

Held, (III). On the merits :

(1) Coming now to the merits of the main submissions made by counsel of the Applicant—as they have been summarized earlier on in this Judgment— I find that, though the letter of the 19th October, 1963 (*exhibit A*) which informed Applicant of the refusal of the Respondent to license him as " an architect by profession ", appears, indeed, to be vague and not to state specifically why the Applicant has been refused the licence applied for, it does come out clearly from the material before the Court that what decided finally the matter was the view that the Applicant did not possess adequate knowledge of the work of an architect, so as to be entitled to be licensed as an " arhitect by profession " ; that this was the decisive factor in the matter must have been well appreciated by the Applicant while his case was still being examined by the Respondent and before he had come to know of the Respondent's *sub judice* decision. Thus, when by means of the letter of the 19th October, 1963, he was told that the information contained in his application, the documents submitted by him in support of such application, and the result of the interview did not satisfy the Respondent that he, the Applicant, complied with the relevant provisions of Law 41/62, the Applicant must have understood clearly that his relevant knowledge had not been found adequate for the purpose. So, it cannot be said that, in the circumstances,

the said letter of the 19th October, 1963, did not communicate sufficiently to the Applicant the reason for the *sub judice* decision, namely that he did not qualify under section 9 (1) (*A*) (i) of Law 41/62.

(2) Regarding, next, the contention of counsel for the Applicant that the Respondent has attributed undue weight to what transpired at the interview of the 21st September, 1963, and that proper weight was not given to the satisfactory architectural work actually done by the Applicant over the years, I must say that I cannot find there anything which could lead me as far as to hold that the *sub judice* decision ought to be annulled.

(3) The work which had been actually done by the Applicant in the past was indeed an important consideration and it was, according to the evidence of the Applicant, duly brought to the notice of the Respondent by the Applicant himself.

(4) But it is, also, clear from the minutes of the aforesaid interview—(and, in this respect, I do prefer such minutes, as conveying more correctly what happened at the interview, to the evidence given by the Applicant on the basis of his recollection of the matter nearly four years later)—that the Applicant appeared to be lacking in theoretical knowledge in relation to certain aspects of architectural work.

(5) In my opinion theoretical knowledge together with actual practical experience are both constituent elements of the requirement of adequate knowledge of the work of an architect, which is laid down in section 9 (1) (A), under which the Applicant had applied for a licence as an " architect by profession ".

(6) It was up to the Respondent to weigh the material before it as a whole, and in the circumstances of this Case, as established before the Court, I am not in a position to say that the Applicant has succeeded in satisfying me that the *sub judice* decision was not reasonably open to the Respondent on the material before it ; the more so, when one bears in mind that an " architect by profession ", once he has been licensed as such, can undertake architectural work to the same extent as an academically qualified registered architect (see section 11 of Law 41/62).

(7) I cannot, therefore, hold that the Respondent has exercised its relevant discretion in a defective manner—contrary to law or in excess or abuse of powers—so as to entitle this Court to intervene in favour of the Applicant in this Case.

(8) For all the foregoing reasons this recourse fails and it is hereby dismissed.

There shall be no order as to costs.

Application dismissed. No order as to costs.

Cases referred to:

The Board for Registration of Architects and Civil Engineers v. *Kyriakides* (1966) 3 C.L.R. 640;

HadjiLoukas v. *The Board for Registration of Architects and Civil Engineers* (1966) 3 C.L.R. 666;

Papademetriou v. *The Board for Registration of Architects and Civil Engineers* (1966) 3 C.L.R. 671.

Recourse.

Recourse against the decision of the Respondent not to issue to Applicant a licence as an "architect by profession" under the provisions of Section 9(1)(A) of the Architects and Civil Engineers Law, 1962 (Law 41/62).

Fr. Markides, for the Applicant.

L. Demetriades, for the Respondent.

Cur. adv. vult.

The following Judgment was delivered by:

TRIANTAFYLLIDES, J.: In this Case the Applicant complains against the decision of the Respondent not to issue to him a licence as an "architect by profession" under the provisions of section 9(1)(A) of the Architects and Civil Engineers Law, 1962 (Law 41/62).

Originally in the Application, as filed, there were raised a number of issues, of constitutionality and legality of the *sub judice* decision of the Respondent, which were dealt with by two Interim Decisions given in the present Case* and which were subsequently finally pronounced upon by the Supreme Court on appeal in related proceedings (see *The Board for Registration of Architects and Civil Engineers* and *Kyriakides,* (1966) 3 C.L.R. 640; *HadjiLoukas* and *The Board for Registration of Architects and Civil Engineers,* (1966) 3 C.L.R. 666; *Papademetriou* and *The Board for Registration of Architects and Civil Engineers,* (1966) 3 C.L.R. 671); we are, thus, no longer concerned with the said issues of constitutionality and legality in the present Judgment.

Counsel for Applicant in arguing this Case at the final hearing before me has submitted, mainly, that—

(a) the reasons given for the *sub judice* decision, in a letter

*See (1965) 3 C.L.R. at pp. 151 and 617.

to the Applicant, dated the 19th October, 1963 (see *exhibit A*) are vague and insufficient; and that—

(b) undue importance has been attributed by the Respondent to what transpired at the interview of the Applicant by the Respondent on the 21st September, 1963, instead of Respondent deciding the issue of the adequacy of the Applicant's knowledge of the work of an architect on the basis of the actual architectural work which the Applicant had been doing before the enactment of Law 41/62; according to his counsel, the Applicant, having been for years the only architect in private practice in Larnaca, has designed, and supervised the construction of, over one thousand buildings, including two cinemas, in Larnaca and elsewhere in Cyprus.

Counsel for the Respondent has argued, on the contrary, that the decision of the Respondent was properly open to it on the basis of the material before it and that, furthermore, the Applicant is estopped from pursuing any more the present recourse because after it had been filed he applied for, and obtained, a licence as a Building Technician, Class A, under the provisions of section 9(1)(B)(a) of Law 41/62.

The relevant events, in so far as the proceedings before the Respondent are concerned, appear to be as follows:

On the 13th June, 1963, the Applicant applied for a licence as an "architect by profession" (see *exhibit B*).

As it appears from the relevant case file of the Respondent (see *exhibit D*), the Respondent decided at its meeting of the 6th July, 1963, that from the evidence produced by the Applicant it was not satisfied that the Applicant had been able to prove that he had been practising as an architect for seven years prior to the 30th May, 1962,—when Law 41/62 came into force.

Such seven years' practice was a requirement laid down by means of section 9(1)(A)(iii) of Law 41/62 and unless the Applicant could establish that he did meet this requirement he could not be licensed as an "architect by profession".

Thus, the Applicant was requested by the Respondent to submit further information on this point.

On the 5th August, 1963, the Respondent considered once again the application of the Applicant and, in view of a certificate issued by the Municipal Engineer of Larnaca dated the 15th July, 1963—which is to be found in the file *exhibit D*—the Respondent was apparently satisfied that the Applicant did meet

the requirement under section 9(1)(A)(iii), above, and decided to call the Applicant to an interview.

This interview took place on the 21st September, 1963, both the original notes kept at the time by the Secretary of the Respondent and the relevant minutes of the Respondent, which were prepared on the basis of such notes, have been made available to the Court (see *exhibits F and E*, respectively).

Then on the 11th October, 1963, the matter was finally dealt with by the Respondent and it was decided to refuse the application of the Applicant.

This recourse was filed on the 2nd December, 1963, later on, however, and as recently as the 15th February, 1967, the Respondent re-examined the case of the Applicant, bearing in mind all the material before it, including the plans and other documents which had been submitted by the Applicant and the minutes of the interview of the Applicant, and it reached the conclusion that the Applicant did not have adequate knowledge for the purpose of practising as an "architect by profession"

This decision of the 15th February, 1967, which was taken only twelve days before this Case was due to come up for hearing on its merits on the 27th February, 1967, and at a time when the Respondent knew already of the date of such hearing—which had been fixed through a Direction given for the purpose on the 26th November, 1966—can only be regarded as a re-examination of the matter by the Respondent in view of the impending hearing of the Case; as such re-examination does not appear to have taken place on the basis of any new material, but on the basis of the already existing one, the decision in question can only be regarded as confirmatory of the *sub judice* one, and as not carrying the matter any further at all, in any case its validity is outside the ambit of the present recourse which had been filed much earlier

During the proceedings a point has arisen, as follows, regarding the material on which the *sub judice* decision was based –

In the relevant file of the Respondent (*exhibit D*) there are to be found architectural plans, prepared by the Applicant, which he had submitted in support of his application for a licence as an "architect by profession". The Applicant has stated to the Court, in evidence, that, later, at the request of the Respondent, and before his application had been rejected

by the Respondent, he had submitted more plans of his; such plans are not to be found in the said file, and when this Case was being heard they could not be traced in the records of the Respondent; it seems that they were somehow misplaced.

Counsel for the Applicant has submitted, in this connection, that the fact that the subsequently submitted plans of the Applicant cannot be traced means that the Respondent did not take them duly into account before reaching its *sub judice* decision and, thus, such decision was taken without Respondent having duly considered all the relevant material.

It is, however, clear from the material before the Court, and particularly from the evidence of the Applicant himself, that the said plans, which cannot now be traced, were placed before the Respondent at the Respondent's own request, because it wished to have before it more plans typical of the work which the Applicant had been doing in the past; I cannot, therefore, infer, from the mere fact that they could not subsequently be traced, that they were not duly taken into account at the proper stage; thus, the unknown fate of the plans in question cannot, in my opinion, influence, in favour of the Applicant, the fate of the present recourse.

It is convenient, next, to deal, at this stage, with the contention of counsel for Respondent that the Applicant is estopped from pursuing further this recourse because after he had been refused a licence as an "architect by profession", and while this recourse was pending, he applied, on the 10th June, 1964, (see *exhibit C*) for a licence as a Building Technician, Class A, and he was in fact granted such a licence by Respondent; on the strength of such a licence the Applicant can do architectural work, but to a much more limited extent than he would have been able to do had he been licensed as an "architect by profession" (see section 11 of Law 41/62).

I cannot agree at all with counsel for Respondent on this issue: According to the evidence of the Applicant, which I do accept on this point, he had applied for a licence as a Building Technician, Class A, as a means of being enabled to continue working while this Case was pending before the Court, and he did so in consultation with, and on the advice of, the then Chairman of the Respondent, Mr. N. Roussos; so, no question of the Applicant having abandoned his claim for a licence as an "architect by profession" could be said to arise.

Moreover, the very fact that the Respondent, in 1967, three

years later, did re-examine, as aforestated, the case of the Applicant, in connection with his application for a licence as an "architect by profession", shows beyond doubt that the Respondent itself did not think that Applicant had abandoned his claim to be licensed as an "architect by profession", or that he was estopped from pursuing such claim because he had in the meantime obtained a less favourable to him licence as a Building Technician, Class A.

Coming now to the merits of the main submissions made by counsel of the Applicant—as they have been summarized earlier on in this Judgment—I find that, though the letter of the 19th October, 1963 (*exhibit A*) which informed Applicant of the refusal of the Respondent to license him as "an architect by profession", appears, indeed, to be vague and not to state specifically why the Applicant has been refused the licence applied for, it does come out clearly from the material before the Court that what decided finally the matter was the view that the Applicant did not possess adequate knowledge of the work of an architect, so as to be entitled to be licensed as an "architect by profession"; that this was the decisive factor in the matter must have been well appreciated by the Applicant while his case was still being examined by the Respondent and before he had come to know of the Respondent's *sub judice* decision. Thus, when by means of the letter of the 19th October, 1963, he was told that the information contained in his application, the documents submitted by him in support of such application, and the result of the interview did not satisfy the Respondent that he, the Applicant, complied with the relevant provisions of Law 41/62, the Applicant must have understood clearly that his relevant knowledge had not been found adequate for the purpose. So, it cannot be said that, in the circumstances, the said letter of the 19th October, 1963, did not communicate sufficiently to the Applicant the reason for the *sub judice* decision, namely that he did not qualify under section 9(1)(A)(i) of Law 41/62.

Regarding, next, the contention of counsel for the Applicant that the Respondent has attributed undue weight to what transpired at the interview of the 21st September, 1963, and that proper weight was not given to the satisfactory architectural work actually done by the Applicant over the years, I must say that I cannot find there anything which could lead me as far as to hold that the *sub judice* decision ought to be annulled.

The work which had been actually done by the Applicant in the past was indeed an important consideration and it was, according to the evidence of the Applicant, duly brought to the notice of the Respondent by the Applicant himself.

But it is, also, clear from the minutes of the aforesaid interview —(and, in this respect, I do prefer such minutes, as conveying more correctly what happened at the interview, to the evidence given by the Applicant on the basis of his recollection of the matter nearly four years later)—that the Applicant appeared to be lacking in theoretical knowledge in relation to certain aspects of architectural work.

In my opinion theoretical knowledge together with actual practical experience are both constituent elements of the requirement of adequate knowledge of the work of an architect, which is laid down in section 9(1)(A), under which the Applicant had applied for a licence as an "architect by profession".

It was up to the Respondent to weigh the material before it as a whole, and in the circumstances of this Case, as established before the Court, I am not in a position to say that the Applicant has succeeded in satisfying me that the *sub judice* decision was not reasonably open to the Respondent on the material before it; the more so, when one bears in mind that an "architect by profession", once he has been licensed as such, can undertake architectural work to the same extent as an academically qualified registered architect (see section 11 of Law 41/62).

I cannot, therefore, hold that the Respondent has exercised its relevant discretion in a defective manner—contrary to law or in excess or abuse of powers—so as to entitle this Court to intervene in favour of the Applicant in this Case.

Before concluding this Judgment I would like to observe that in this Judgment I have been using the term "adequate" in order to describe the knowledge required—under section 9(1)(A)(i) to be possessed by one who is to be licensed as an "architect by profession"; I have used such term because this is the term used in the English translation of Law 41/62 which has been prepared by the Ministry of Justice. On the other hand during the hearing of the Case the term "sufficient" was employed, instead of the term "adequate", in order to describe the knowledge in question. I must make it clear that in determining this Case I have not based myself in any way on any possible subtle differences between the meanings of the

English terms "adequate" and "sufficient"; I kept all along in mind, on this point, the expression used in the official Greek text of section 9(1)(A)(i) of Law 41/62, namely, «ἐπαρκεῖς γνώσεις», and I have used the expression "adequate knowledge" in this Judgment as conveying «ἐπαρκεῖς γνώσεις» and nothing else.

For all the foregoing reasons this recourse fails and it is hereby dismissed.

There shall be no order as to costs.

Application dismissed.
No order as to costs.