IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

NIOVI MICHAEL GLYKI AND ANOTHER,

Applicants,

and

THE MUNICIPAL CORPORATION OF FAMAGUSTA,

Respondent.

(*Case No.* 312/66).

Compulsory Acquisition of Land—Municipal Corporations—Compulsory acquisition by the Municipal Corporation of Famagusta for building a 'Cultural Palace'—Competence—Matter within the ambit of the competence of a municipality under the legislation in force—The Compulsory Acquisition of Property Law, 1962 (*Law No.* 15 *of* 1962) *sections* 2, 3 (2) (9) *and* 4 ; *and The Municipalities Law,* 1964 (*Law No.* 64 *of* 1964) *section* 8(2) *and The Municipal Corporations Law, Cap.* 240 *sections* 123 *and* 124(2)(*i*)—*Nor does the matter, aimed at an object of cultural nature, fall within the exclusive competence of the Greek Communal Chamber (and, now, after its dissolution, within the exclusive competence of the Ministry of Education)—If follows, therefore, that the* sub judice *order (or decision) has not been made in contravention of the provisions of Article* 87.1 (*b*) *and* 89.1 (*a*) (*ii*) *of the Constitution—Cfr. Articles* 23.4, 87.1 (*g*) *and* 89.1 (*c*) *of the Constitution—See, also, immediately herebelow under Compulsory Acquisition.*

Compulsory Acquisition—Principles applicable to compulsory acquisitions, as laid down in the cases of Chrysokhou Bros. (infra) *and* Venglis (infra)—*On the basis of the said principles a compulsoly acquisition cannot be decided upon except as a* last resort—*And inevitably it cannot be said that a compulsory acquisition has been so decided upon as a* last resort *until a sufficient study of the matter from all relevant angles has been made—And a public authority cannot proceed to acquire compulsorily a property first, and leave it there waiting until the relevant study and planning for the particular project has taken place, thus making a profit at the expense of a private owner—And a public authority cannot, without due reasoning, reject possibilities and suggestions of voluntary alternatives such as voluntary sale or exchange of property—In the present case, the order for compulsory acquisition*

was annulled as having been made prematurely and in contravention of the aforesaid principles of Administrative Law, i.e. *as contrary to law and in excess and abuse of powers—See, also, herebelow under Administrative Law.*

Administrative Law—Compulsory acquisitions—Principles applicable to compulsory acquisitions by corporations of public utility such as the Electricity Authority and the Cyprus Inland Telecommunications Authority (CYTA)—Apply with equal force to compulsory acquisitions by municipal authorities—Cfr. section 4 *of Law No.* 15 *of* 1962 (supra)*—See, also, above and herebelow.*

Administrative Law—General Principles of Administrative Law—Discretionary powers—Excess and abuse of powers—Acting contrary to such principles is acting contrary to law.

Principles of Administrative Law—See above.

Excess and abuse of powers—See above.

Abuse and excess of powers—See above.

Constitutional Law—Cultural matters—Exclusive competence of the Communal Chambers—Articles 87.1 (*b*) *and* 89.1 (*a*) (*ii*) *of the Constitution—Compulsory acquisition of land by a municipal authority with the object of erecting a ' Cultural Palace ' is not outside the ambit of its competence—See above under Compulsory Acquisition.*

Immovable Property—Compulsory acquisition—See above.

Municipalities—Compulsory acquisition—Competence under the legislation—' Cultural Palace '—Acquisition of land for the purposes of erecting such a ' Cultural Palace '—The decision is not ultra vires *— Nor does it contravene the Constitution, namely Articles* 87.1 (*b*) *and* 89.1 (*a*) (*ii*) *of the Constitution—See above under Compulsory Acquisition ; Constitutional Law.*

Cultural matters—Building a ' Cultural Palace '—Compulsory acquisition of land by a Municipal Authority for such purpose—Not repugnant to Articles 87.1 (*b*) *and* 89.1 (*a*) (*ii*) *of the Constitution—Decision not* ultra vires, *either—See above under Compulsory Acquisition ; Constitutional Law.*

Communal Chambers—Exclusive competence—See above under Compulsory Acquisition ; Constitutional Law ; Cultural matters ; Municipalities.

In this case the Applicants challenge the validity of an Order for compulsory acquisition made by the Municipal Committee

of Famagusta on the 22nd September, 1966, and published in the Official *Gazette*, Third Supplement, of the 20th October, 1966, under Notification 754. By virtue of that Order the immovable property of the Applicants, situate at Famagusta, was acquired for the purpose of building a " Cultural Palace " ("Μέγαρον Πολιτισμοῦ"), which would comprise, *inter alia*, a library, a picture gallery, an art museum, the municipal theatre and an auditorium for concerts. At the relevant meeting of the Municipal Committee, its Chairman explained that an area belonging to the Municipality and the adjoining property of the Applicants were the most suitable for the purpose ; this was accepted by the Municipal Committee and it was decided to acquire compulsorily the adjoining properties so as to have space for such a big project («διὰ νὰ ὑπάρχῃ πλήρης δι' ἕνα τόσον μεγάλον ἔργον ἐπάρκεια χώρου»).

It would appear that no architectural study has yet been made in relation to the proposed " Cultural Palace " and that a competition would be held for the purpose in the future. Actually such a competition was decided upon at the relevant meeting of the Municipal Committee of the 9th February, 1966, at which the *sub judice* compulsory acquisition was also decided upon. Nor does there appear that any effort has been made to ascertain whether the property of the Applicants could be acquired by means of a voluntary sale before it was decided to acquire it compulsorily. On the contrary, though the Applicants by their letter of the 16th August, 1966, offered to exchange their property concerned with other municipal property, nothing has been placed before the Court on behalf of the Respondent to show why such a voluntary alternative was rejected and a compulsory acquisition was resorted to instead.

It was argued on behalf of the Applicants that :

(A) In proceeding to acquire compulsorily the Applicants' said property, the Respondent Municipality had acted *ultra vires*, because under the relevant legislative provisions the creation of a Cultural Palace was not within the ambit of the competence of a municipality.

(B) In any event, the Respondent had acted unconstitutionally because compulsory acquisitions for matters of cultural nature have, since the coming into operation in 1960 of the Constitution, become matters within the exclusive competence of the Communal Chambers

(and, at present, in relation to the particular matter in issue, within the competence of the Ministry of Education set up after the dissolution of the Greek Communal Chamber in March 1965 by Law No. 12 of 1965).

(C) In any event, the compulsory acquisition complained of has been made in contravention of the principles of Administrative Law applicable to compulsory acquisitions as laid down in a number of cases such as *Chrysokhou Bros. and The Cyprus Inland Telecommunication Authority (CYTA)* (1966) 3 C.L.R. 482 at p. 497, *Venglis and The Electricity Authority of Cyprus* (1965) 3 C.L.R. 252.

Matters of compulsory acquisition are regulated by the Compulsory Acquisition of Property Law, 1962 (Law No. 15 of 1962) and, in section 2 thereof, a municipal corporation is specifically stated to be an "acquiring authority". On the other hand, section 3 (2) (q) of the same Law provides that, among the purposes which are to the public benefit and in respect of which acquisition may be made, are the "attainment or promotion of the objects of a municipal corporation ..... specifically provided by a Law". The Law now in force regarding municipal corporations is the Municipalities Law, 1964 (Law No. 64 of 1964) and by virtue of section 8 (2) thereof the provisions, *inter alia*, of sections 123 to 126 of the Municipal Corporations Law, Cap. 240—which ceased to be in force on the 31st December, 1962—have been made part of the said Law No. 64 of 1964. Section 123 of Cap. 240 (*supra*), which lays down the duties of municipalities, obviously does not cover the matter in issue. But section 124, dealing with the powers of the municipalities, provides in sub-section (2) (i) that a municipality shall have powers "to built public buildings and to do other public works .....".

Paragraph 1 (b) and (g) of Article 87 of the Constitution read as follows :

"87.1. The Communal Chambers shall, in relation to their respective community, have competence to exercise within the limits of this Constitution and subject to paragraph 3 of this Article, legislative power solely with regard to the following matters :

" (a).....(b) all educational, cultural and teaching matters ; (d).....(e).....(f).....(g) in matters where subsidiary legis-

lation in the form of regulations or bye--laws within the framework of the laws relating to municipalities will be necessary to enable a Communal Chamber to promote the aims pursued by municipalities composed solely of members of its respective Community ".

Article 89 of the Constitution provides :

" 89.1. The Communal Chambers shall, in relation to their respective Community, also have competence—

(a) (i).....(ii) to exercise administrative powers in the manner and through such persons as may be provided by a communal law, with respect to any matter on which they are competent to exercise legislative power under the provisions of Article 87 other than those provided in sub-paragraphs (g) and (h) of paragraph 1 of such Article for which provision is made in the ensuing sub-paragraphs ; (b).....(c) to promote the aims pursued by the municipalities composed solely of members of their respective Community and to supervise in their functions such municipalities to which the laws shall apply ".

In rejecting the two first submissions of counsel for Applicants under (A) and (B) hereabove, but in sustaining his third submission under (C) hereabove and annulling the *sub judice* Order for compulsory acquisition on that ground, the Court :

Held, I. Regarding the submission that the Respondent Municipality acted ultra vires i.e. *outside its competence under the relevant legislation :*

(1) In my opinion the objects of a municipality, for the purposes of section 3 (2) (q) of the Compulsory Acquisition of Property Law, 1962 (*supra*), should be taken to include not only the duties laid down by section 123 of Cap. 240 (*supra*) but also the powers provided for by section 124 of the same Law, Cap. 240 (*supra*).

(2) It follows, thus, that one of such objects is—on the strength of section 124 (2) (i)—" to built public buildings and to do other public works . . . . . " ; and in this connection I see no reason to hold that the public buildings mentioned in section 124 (2) (i) are only the public buildings required for the purposes of the duties laid down by section 123 of Cap. 240 (*supra*).

Held, II. Regarding the submission that the Respondent Municipality had acted unconstitutionally, in that under Articles 87.1(*b*)

and 89.1 (*a*) (*ii*) *of the Constitution cultural matters are within the exclusive competence of the Communal Chambers and, in the present case, the matter is within the Competence of the Ministry of Education after the dissolution of the Greek Communal Chamber :*

(1) I cannot accept the contention that the Respondent has acted unconstitutionally, on the ground that compulsory acquisitions for matters of cultural nature became matters within the exclusive competence of the Communal Chamber under Articles 87.1(b) and 89.(1)(a)(ii) of the Constitution (*supra*).

(2) Under Article 87.1(g) of the Constitution it is clear that the municipalities are to function within the framework of the Laws of the Republic, and so once by virtue of section 124(2)(i) of the Municipal Corporations Law, Cap. 240 (*supra*) there was included among the objects of a municipality the building of public buildings—(a "Cultural Palace" being such a public building)—and by virtue of section 2 of the Compulsory Acquisition of Property Law, 1962 (Law No. 15 of 1962) a municipal corporation is designated as an acquiring authority, alongside a Communal Chamber—(exactly as it is envisaged by Article 23.4 of the Constitution)—I can see nothing unconstitutional in the Respondent municipality proceeding to acquire compulsorily land for the attainment of one of its objects.

(3) Futhermore, a perusal of Articles 87 and 89 of the Constitution will show amply that cultural matters, in respect of which a Communal Chamber might exercise legislative and administrative powers, are other than those relevant to municipalities (compare Articles 87.1(b) and 89.1(a)(ii) to Articles 87.1(g) and 89.1(c) of the Constitution, *supra*).

Held, III. Regarding the argument that the sub judice *compulsory acquisition has been made in contravention of the principles of Administrative Law applicable to compulsory acquisitions as laid down in the Chrysokhou's* and *Venglis' cases* (*supra*)*:*

(1) (a) I cannot accept the argument of counsel for the Respondent that such principles as aforesaid, while they do apply to a public utility body such as the Electricity Authority or the Cyprus Telecommunication Authority (CYTA), they do not apply to a municipal authority. Reference has been made in this respect to section 4 of the said Law No. 64 of 1964 (*supra*) and to *Kouppas* and *The Municipality of Nicosia* (1966) 3 C.L.R. 765. But I find nothing in section 4 to support the submission of counsel for the Respondent; if anything, section 4 is more

restrictive of the powers of a municipal corporation to acquire property compulsorily than of the powers of a public utility body. Nor is there anything in the decision in the *Kouppas* case which could be of any value in sustaining the submission in question on behalf of the Respondent.

(b) I have no difficulty whatsoever in holding that the principles which have been adopted in the aforementioned two cases (*Chrysokhou Bros.* and the earlier *Venglis'* case, *supra*) apply with equal force to compulsory acquisitions by municipalities.

(2) It is quite clear on the basis of the said principles that a compulsory acquisition cannot be decided upon except as a *last resort*, and an inevitable corollary of this is that it cannot be said that a compulsory acquisition has been decided upon as a *last resort* until a sufficient study of the matter from all relevant angles has been made.

(3) It is quite clear that the compulsory acquisition of the property of the Applicants was decided upon without any comprehensive study, even a provisional one, of the proposed "Cultural Palace" having been made; and unless such a study had been made the Municipal Committee of the Respondent could not have reached any conclusion regarding the probable cost of the "Cultural Palace", either.

(4) In the absence of such a study, and of any knowledge regarding the cost of the project, it cannot be said that the Municipal Committee had sufficient material before it to enable it to decide finally and safely on the selection for the purpose of its property adjoining the property in question of the Applicants, or on the need to acquire—for purposes of sufficient space—the property of the Applicants, or on the feasibility at all of the ambitious project of a "Cultural Palace" as envisaged in the relevant minutes (*exhibit* 2).

(5) (a) Nor does it appear that any effort has been made to ascertain whether the Applicants' property could be acquired by means of a voluntary sale before it was decided to acquire it compulsorily.

(b) On the other hand the Applicants have adduced evidence that there are other suitable areas—either owned by the municipality or which could be acquired by voluntray sale—which could be used for the purpose of erecting the aforesaid "Cultural Palace". And no evidence has been adduced to contradict such evidence for the Applicants.

(6) In all the circumstances, I think that the Respondent has acted prematurely, without sufficient study of the matter; and, therefore, contrary to the relevant principles of Administrative Law, it did not decide upon the compulsory acquisition of the property of the Applicants as a *last resort*. The Respondent, thus, has acted contrary to law—i.e. the said principles—and in excess and abuse of powers.

(7) A public authority can only properly decide upon the compulsory acquisition of property for the purposes of a particular project when the planning for such project has reached such a degree of development as to render it undoubtedly clear that the acquisition is called for and, moreover, that in the circumstances no other course is open to such authority; it cannot proceed to acquire compulsorily a property first, and leave it there waiting until the relevant planning has taken place, thus making a profit at the expense of a private owner, whose property is paid for on the values prevailing at the time when the Notice of the premature compulsory acquisition has been published, and not on the values prevailing at the time, when the compulsory acquisition is resorted to after sufficient planning and as a *last resort*.

(8) For all the foregoing reasons the *sub judice* Order of acquisition is declared null and void and of no effect whatsoever. There will be an order for £25 towards costs in favour of Applicants.

Sub judice Order annulled.
Order for costs as aforesaid.

Cases referred to:

Venglis and *The Electricity Authority of Cyprus* (1965) 3 C.L.R. 252;

Chrysokhou Bros. and *The Cyprus Inland Telecommunications Authority (CYTA)* (1966) 3 C.L.R. 482 at p. 497;

Kouppas and *The Municipality of Nicosia* (1966) 3 C.L.R. 765.

Recourse.

Recourse against the validity of an order for compulsory acquisition, made by the Municipal Committee of Famagusta on the 22nd September, 1966, whereby the property of the

Applicants was acquired for the purpose of building a Cultural Palace.

Sir P. Cacoyiannis, for the Applicants.

Fr. Saveriades with *M. Papas,* for the Respondent.

Cur. adv. vult.

The following Judgment was delivered by:

TRIANTAFYLLIDES, J.: In this Case the Applicants challenge, in effect, the validity of an Order for compulsory acquisition made by the Municipal Committee of Famagusta on the 22nd September, 1966 and published in the official Gazette on the 20th October, 1966 (see Notification 754 in the Third Supplement).

By virtue of such Order the property of the Applicants—as described in the relevant Notice of acquisition, published in the official Gazette on the 4th August, 1966 (see Notification 510 in the Third Supplement)—was acquired for the purpose of building a Cultural Palace (Μέγαρον Πολιτισμοῦ)

The Applicants, by letter dated the 16th August, 1966 (see *exhibit* 3), did object against the proposed compulsory acquisition of their property, but they were informed, by letter of the Respondent dated the 17th September, 1966 (see *exhibit* 4), that their objection had been rejected.

The property in question of the Applicants appears marked as plot 345, and is delineated in blue, on the relevant survey map (see *exhibit* 1).

The decision to acquire the Applicants' property (and another adjoining private property, plot 118 on *exhibit* 1) was taken at a meeting of the Municipal Committee on the 9th February, 1966 (see the minutes *exhibit* 2). It is stated therein that the Cultural Palace would comprise, *inter alia,* a library, a picture gallery, an art museum, the municipal theatre and an auditorium for concerts.

At the said meeting of the 9th February, 1966, the Chairman of the Municipal Committee put forward proposals for development projects in 1966, one of them being the Cultural Palace. The Chairman explained that an alternative site for such Palace—the site of the Municipal Garage—was not a suitable one, whereas an area belonging to the Municipality—(and adjoining the property of the Applicants)—was the most suitable from the

point of view of location of the Palace and parking facilities; this was accepted by the Municipal Committee and it was decided to acquire compulsorily all the adjoining properties so as to have space for such a big project («διὰ νὰ ὑπάρχῃ πλήρης δι' ἕνα τόσον μεγάλον ἔργον ἐπάρκεια χώρου»).

It has been submitted, first, by counsel for the Applicants that, in proceeding to acquire the property in question compulsorily, the Respondent has acted unconstitutionally and ultra vires, because under the existing relevant constitutional and legislative provisions the creation of a Cultural Palace was not within the ambit of the competence of a municipality.

In my opinion this submission of counsel is not a correct one:

Matters of compulsory acquisition are regulated by the Compulsory Acquisition of Property Law, 1962, (Law 15/62) and, by virtue of section 2 thereof, a municipal corporation is specifically stated to be an acquiring authority.

Section 3(2)(q) of the same Law provides that, among the purposes which are to the public benefit and in respect of which a compulsory acquisition may take place, are the "attainment or promotion of the objects of a municipal corporation..... specifically provided by a Law".

The Law in force, at the material time, in relation to municipal corporations, was the Municipalities Law, 1964 (Law 64/64) and by virtue of section 8(2) thereof the provisions of, *inter alia,* sections 123-126 of the Municipal Corporations Law, Cap. 240—which ceased to be in force on the 31st December, 1962—have been made part of Law 64/64.

In my opinion, the objects of a municipality, for the purposes of section 3(2)(q) of Law 15/62, should be taken to include not only the duties laid down by means of section 123 of Cap. 240 but also the powers provided for by section 124 of Cap. 240. It follows, thus, that one of such objects is—on the strength of section 124(2)(i)—"to build public buildings and to do other public works . "; and in this connection I see no reason to hold that the public buildings mentioned in section 124(2)(i) are only the public buildings required for the purposes of the duties laid down by section 123.

Nor can I, either, accept the contention that the Respondent has acted unconstitutionally because, allegedly, compulsory

acquisitions for matters of cultural nature have, since the coming into operation of the Constitution in 1960, become matters within the exclusive competence of the Communal Chambers (and, at present, in relation to the particular matter in issue, within the competence of the Ministry of Education which was set up after the dissolution of the Greek Communal Chamber). Under Article 87(1)(g) of the Constitution it is clear that the municipalities are to function within the framework of the Laws of the Republic, and so once, by virtue of section 124(2)(i) of Cap. 240, it was included among the objects of a municipality the building of public buildings—(a Cultural Palace being a public building)—and by virtue of section 2 of Law 15/62 a municipal corporation was designated as an acquiring authority, alongside a Communal Chamber—(exactly as is envisaged by Article 23.4 of the Constitution)—I can see nothing unconstitutional in the Respondent proceeding to acquire compulsorily land for the attainment of one of its objects. Furthermore, a perusal of Articles 87 and 89 of the Constitution will show amply that cultural matters, in respect of which a Communal Chamber might exercise legislative and administrative powers, are other than those relevant to municipalities (compare Articles 87.1(b) and 89.1(a)(ii) to Articles 87.1(g) and 89.1(c) of the Constitution).

For the foregoing reasons I find that the first leg of the argument of counsel for the Applicants cannot succeed.

The second leg of the argument of counsel for Applicants has been that the compulsory acquisition in question has been made in contravention of the principles of Administrative Law applicable to compulsory acquisitions as referred to in *Chrysokhou Bros.* and *The Cyprus Inland Telecommunications Authority (CYTA)*, (1966) 3 C.L.R. 482 at p. 497.

It has been submitted by counsel for Respondent that such principles, while they do apply to a public utility body such as CYTA, they do not apply to a municipal authority such as Respondent; reference has been made in this respect to section 4 of Law 15/62 and to *Kouppas* and *The Municipality of Nicosia*, (1966) 3 C.L.R. 765.

I can find nothing in section 4 to support the submission of counsel for Respondent; if anything, section 4 is more restrictive of the powers of a municipal corporation to acquire property compulsorily than of the powers of a public utility body. Nor is there anything in the Decision in the *Kouppas*

case which could be of any value in sustaining the submission in question of counsel for the Respondent

I have no difficulty whatsoever in holding that the principles which have been adopted in the aforementioned case of *Chrysokhou Bros* —and earlier in *Venglis* and *The Electricity Authority of Cyprus*, (1965) 3 C.L R 252—apply with equal force to compulsory acquisitions by municipal authorities.

It is quite clear on the basis of the said principles that a compulsory acquisition cannot be decided upon except as a last resort, and an inevitable corollary of this is that it cannot be said that a compulsory acquisition has been decided upon as a last resort until a sufficient study of the matter from all relevant angles has been made

At the commencement of the hearing of this Case, in his opening address, counsel for the Respondent told the Court that the Respondent, before deciding to acquire the property of the Applicants, carried out an examination of the matter and decided that the area in question was the most suitable; and that evidence would be adduced to explain the steps taken by the Respondent At the resumption, however, of the hearing counsel for the Respondent told the Court that he was not calling any evidence and that he was instructed that no architectural study had yet been made in relation to the proposed Cultural Palace and that a competition would be held for the purpose in the future Actually, such a competition was decided upon at the meeting of the Municipal Committee, of the 9th February, 1966, at which the *sub judice* compulsory acquisition was also decided upon (see the minutes, *exhibit* 2). Counsel has stated, further that, apart from *exhibit* 2, no report or other material existed, or any evidence was available, regarding the considerations which led to, or the steps which were taken, in deciding on the compulsory acquisition of the property of the Applicants. He submitted, nevertheless, that the said minutes spoke for themselves and they were sufficient to establish the rightfulness of the compulsory acquisition in question.

It is quite clear from the statement of counsel for the Respondent and the material before the Court that the compulsory acquisition of the property of the Applicants was decided upon without any comprehensive study, even a provisional one, of the proposed Cultural Palace having been made, and unless such a study had been made the Municipal Committee could not have reached any conclusion regarding the probable cost of the Cultural Palace, either

In the absence of such a study, and of any knowledge regarding the cost of the project, it cannot be said that the Municipal Committee had sufficient material before it to enable it to decide finally and safely on the selection for the purpose of its property adjoining the property in question of the Applicants, or on the need to acquire—for purposes of sufficient space—the property of the Applicants, or on the feasibility at all of the ambitious project of a Cultural Palace as envisaged in the minutes of the Municipal Committee, *exhibit* 2.

Nor does there appear to have been made any effort to ascertain whether the property of the Applicants could be acquired by means of a voluntary sale before it was decided to acquire it compulsorily. On the contrary, though the Applicants by their letter of the 16th August, 1966 (*exhibit* 3) offered to exchange their property concerned with other municipal property, nothing has been placed before the Court, on behalf of the Respondent, to show why such a voluntary alternative was rejected and a compulsory requisition was resorted to.

On the other hand the Applicants have adduced evidence that there are other suitable areas—either owned by the municipality or which could be acquired by voluntary sale—which could be used for the purpose of erecting the Cultural Palace. In particular one of such areas is area A, on the map *exhibit* 1, which is the property of the Respondent and which appears to be as well located as, and larger than, area D—which is the area owned by the Respondent and selected for the building thereon, and on the adjoining private properties, of the Cultural Palace.

No evidence at all has been adduced to contradict the evidence for the Applicants.

In all the circumstances, I think that the Respondent has acted prematurely, without a sufficient study of the matter, and, therefore, contrary to the relevant principles it did not decide upon the compulsory acquisition of the property of the Applicants as a last resort; it has, thus, acted contrary to law—i.e. the said principles—and in excess and abuse of powers.

A public authority can only properly decide upon the compulsory acquisition of property for the purposes of a particular project when the planning for such project has reached such a degree of development as to render it undoubtedly clear that the acquisition is called for and, moreover, that in the circum-

stances no other course is open to such authority; it cannot proceed to acquire compulsorily a property first, and leave it there waiting until the relevant planning has taken place, thus making a profit at the expense of a private owner, whose property is paid for on the values prevailing at the time when the Notice of the premature compulsory acquisition has been published, and not on the values prevailing when the compulsory acquisition is resorted to after sufficient planning and as a last resort.

For all the above reasons, I declare the *sub judice* Order of acquisition as null and void and of no effect whatsoever, and I adjudge the Respondent to pay to Applicants £25.– towards costs.

Sub judice Order annulled.
Order for costs as aforesaid.