

1970
May 8

[VASSILIADES, P., TRIANTAFYLLIDES, JOSEPHIDES, JJ.]

FRIXOS
KATSIKIDES
v.
MICHAEL
CONSTANTI-
NIDES

FRIXOS KATSIKIDES,

Appellant-Defendant,

v.

MICHAEL CONSTANTINIDES,

Respondent-Plaintiff.

(Civil Appeal No. 4852).

Rent Control—Rent restriction—Dwelling-house—Rent—“ Standard rent ”—Increase of standard rent at determination of the contractual tenancy—Section 7 (2) of the Rent (Control) Law, Cap. 86—The case of Maison Jenny Ltd. v. Pericleous, 22 C.L.R. 122 followed.

“ *Standard rent* ”—See *supra*.

Landlord and Tenant—See *supra*.

The landlord (respondent-plaintiff), purporting to act under the provisions of section 7 (2) of the Rent Control Law, Cap. 86, increased the “ standard rent ” (£15 monthly) to £30 monthly *viz.* by the maximum rate allowed under that section ; he actually complied with all the other relevant requirements of the statute. The appellant (defendant), being the statutory tenant of the premises contended that the aforesaid section 7 (2) under which the landlord (respondent) purported to increase the rent, was not applicable to this case. The Supreme Court, following the case *Maison Jenny Ltd. v. Pericleous*, 22 C.L.R. 122 and upholding the judgment appealed from, dismissed this appeal taken by the statutory tenant of the premises in question.

Cases referred to :

Maison Jenny Ltd. v. Pericleous, 22 C.L.R. 122 followed;
Katsikides v. Constantinides (1969) 1 C.L.R. 31.

Appeal.

Appeal by defendant against the judgment of the District Court of Nicosia (Stylianides, D.J.) dated the 14th October, 1969 (Action No. 1866/69) whereby he was ordered to evacuate and deliver vacant possession of a house situated at No. 12, Kritis Str., Nicosia and to pay the amount of £60.—to plaintiff as arrears of rent.

X. Syllouris with *P. Frakalas*, for the appellant.

G. Ladas, for the respondent.

The following judgment was delivered by :

VASSILIADES, P. : This is an appeal from a judgment of the District Court of Nicosia by a statutory tenant, (the defendant in the action), against his landlord, the owner of the property (Plaintiff in the action). The appeal turns on the application of the Rent (Control) Law, Cap. 86, in its present form ; and more particularly in the application of the provisions in connection with the increase of the " standard rent ".

The facts, taken from the judgment of the trial Court, are as follows :—

The landlord (plaintiff in the action and respondent herein) is the owner of a fairly big house within the Municipal limits of Nicosia, No. 12, Crete Street. With reference to the date fixed in the Rent (Control) Law, Cap. 86, in connection with the " standard rent ", *i.e.* the first day of March, 1941, this was a house built before that date; but it was not let until some 15 years later; on June 1, 1957. It was then let for a period of about four years (1.6.57 to 31.8.61) to house the school known as Samuel's Commercial School, at a rent of £40.—per month.

From September 1, 1961, the school was taken over by the Greek Communal Chamber, as the authority responsible for public education which held the property at the same rent until June 30, 1963. From July 1, 1963, the school was taken over by Ioannis Gregoriou, who held it as a tenant until June 30, 1965, at £45 per month rent, continuing to use the premises for the housing of a school. So, during the period June 1957 to June 1965 the house was used as a business premises.

From July 1st, 1965, the property was let to the appellant as a dwelling-house at a rent of £15 per month. That was the first letting of the house as a " dwelling-house " within the definition of that expression in section 2 of the statute in question ; and that letting was covered by a contract of lease dated 30th September, 1965, (exhibit 1 in action 4328/66, District Court Nicosia, the record of which is one of the exhibits before us).

The lease was for one year (1.10.65–30.9.66) with the provision that it would continue thereafter from year to year on the same conditions, subject to termination by two months notice in writing at the end of each annual period, given by registered letter. The contractual tenancy was duly terminated by such a letter dated July 23,

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1966, so that after October 1, 1966, the tenant continued in occupation as a statutory tenant under the Rent (Control) Law, occupying the premises as a dwelling-house.

It is common ground that the premises is situated within a rent restricted area, declared as such under the proviso to subsection (1) of section 3 of the statute. The first dispute between the parties arose as to the rent payable by the tenant for the occupation of the premises after the 30th September, 1966, when the contractual lease was terminated, under the provisions of the contract referred to above. The landlord claimed rent at £0.750 mils per day as provided in clause 10 of the lease for overstay ; the tenant contended that the rent was still £15.—per month. The parties went to litigation over that dispute in action 4328/66, District Court of Nicosia, filed by the landlord against the tenant on December 3, 1966. The District Court found for the landlord ; and held that the rent payable by the statutory tenant on the terms of the lease was £22.500 mils per month as from October 1, 1966 ; but on appeal, this Court held that the rent was £15 per month as claimed by the tenant, (*Katsikides v. Constantinides* (1969) 1 C.L.R. 31).

At the conclusion of that litigation, the landlord purporting to act under the provisions of section 7 (2) of the Rent (Control) Law, increased the rent to £30.—per month, considering himself entitled to increase the rent up to 100% ; and informed the tenant through his lawyer, that the rent as from March 1, 1969, would be £30 per month. The tenant also acting through his lawyer, rejected the claim of the landlord, contending that the rent continued at the rate of £15.—per month as hitherto ; and tendered payments accordingly. This dispute led to a second action between the parties (Action No. 1866/69, D.C. Nicosia, filed on April 18, 1969 by the landlord against the tenant). The claim in this second action was for £60.—rent for the first two months after the landlord's notice, *i.e.* for March and April 1969, (at £30.—per month) and an ejectment order against the statutory tenant for failure to pay the rent due.

In a careful and well considered judgment, delivered on October 14, 1969, the trial Judge gave his reasons for coming to the conclusion that the landlord was entitled to his claim. Starting from the point that the "standard rent" at the material time was £15.—per month, the learned Judge dealt with the question whether the landlord was entitled to the rent claimed by his action.

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On the material before him, the Judge found that the defendant was the only tenant who occupied the premises as a "dwelling-house"; and held that the agreed rent of £15.—per month was the "standard rent" for the purposes of the provisions in the statute regarding the increase of rent. We think that his conclusions are correct; and we agree with his view that, in the circumstances, that was the "standard rent".

Upon that basis, the trial Judge went on to say that the landlord increased the rent by the maximum "rate he was entitled to" (i.e. one hundred per cent, provided in section 7 (2)), by actually complying with all the requirements of the statute in that connection; and upon that the Judge held that the rent due and payable by the statutory tenant as from March 1, 1969, was £30 per month. "It is not necessary for me in the circumstances—the Judge adds—to decide in this judgment whether the tenant was entitled to apply to the Court to fix the reasonable rent. The tenant simply rejected the increase, denied to the landlord the right given to him by the law and failed to pay the increased rent. He only remitted £15.—, thereby becoming the author of his own predicament". This seems to us to present correctly the position.

Holding that the rent payable for the premises in question was £30 per month as from March 1, 1969, the Judge found that on the filing of the action (18.4.69) the statutory tenant was in default with the payment of the rent due; and was therefore liable to ejection; and he granted to the landlord his claim for possession and the rents in arrear with costs.

From this judgment the tenant appealed mainly on the ground that the trial Judge was in error regarding the "standard rent"; and contended that section 7 (2) under which the landlord purported to increase the rent, is not applicable to this case.

We have already said that we find no merit in this contention. As submitted on behalf of the respondent-landlord, the position in this case is fully covered by the decision in *Maison Jenny Ltd., v. Toulla Pericleous* (22 C.L.R. 122, decided in 1957) where it was held that after the termination of a contractual tenancy, a landlord is entitled, under the provisions of section 7 (2) of the Rent (Control) Law, Cap. 86, to increase the rent of premises to which the statute applied, as provided in that section. We hold accordingly; and we dismiss the appeal with costs.

Appeal dismissed with costs.