

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

1970  
Nov. 10

CHRISTAKIS CHRISTODOULOU,

*Appellant,*

*and*

THE REPUBLIC OF CYPRUS, THROUGH

1. THE MINISTER OF THE INTERIOR,
2. THE DIRECTOR OF LANDS AND SURVEYS,

*Respondents.*

CHRISTAKIS  
CHRISTODOULOU  
v.  
REPUBLIC  
(MINISTER OF  
INTERIOR  
AND ANOTHER)

(*Revisional Jurisdiction Appeal No. 70*).

*Recourse under Article 146 of the Constitution—Administrative action relating to property boundaries—Is an action defining civil rights in property and is, thus within the domain of private and not within the domain of public law—Consequently, such action is not cognizable by the Supreme Court on a recourse under Article 146 of the Constitution—The fact that such action was taken in relation to a claim of the Government to a part of the Appellant's property not sufficient to deprive the said action of its true nature as aforesaid—The case of Valana and The Republic, 3 R.S.C.C. 91, not distinguishable from the present one, followed.*

This is an appeal from the decision of a Judge of this Court dismissing the recourse of the Appellant challenging a decision of the Director of Lands and Surveys regarding the description of the boundaries of the Appellant's property. The trial Judge dismissed the recourse on the ground that the subject decision of the Director was not within the domain of public law, as it was a decision clearly within the domain of private law and as such it was outside the jurisdiction of the Supreme Court on a recourse under Article 146 of the Constitution. In this respect the trial Judge relied mainly on the case *Valana and The Republic*, 3 R.S.C.C. 91.

Dismissing the appeal, the Supreme Court:—

*Held*, (1). The Appellant is complaining in these proceedings against administrative action relating to the boundaries of his property; the fact that such action was taken in relation to a claim of the Government to a part of his said property, which allegedly had been ceded to the Government, by his predecessor in title, is not sufficient to deprive the said action

1970  
Nov. 10

—  
CHRISTAKIS  
CHRISTODOULOU  
v.  
REPUBLIC  
(MINISTER OF  
INTERIOR  
AND ANOTHER)

of its nature, viz. action defining civil rights in property and being, thus, within the domain of private law, and not action taken by the administration acting within the domain of public law.

(2) We see no reason for holding that this case is distinguishable from the *Valana* case (*supra*) merely because the title-deed originally issued to the Appellant had later on to be revoked in the light of what in the view of the competent authority appeared to be the correct position, or because this is not an instance, as in the *Valana* case, where a decision as to boundaries was taken under section 61 of the Immovable Property (Tenure, Registration and Valuation) Law, Cap. 224.

*Appeal dismissed. No order as to costs in the appeal.*

Cases referred to:

*Valana* and *The Republic*, 3 R.S.C.C. 91, followed.

### Appeal.

Appeal against the judgment of a Judge of the Supreme Court of Cyprus (Hadjianastassiou, J.) given on the 6th February, 1970 (Revisional Jurisdiction Case No. 144/67) dismissing a recourse of the Appellant against a decision of the Director of Lands and Surveys regarding the description of the boundaries of Appellant's property.

*A. Triantafyllides* with *G. Constantinides*, for the Appellant.

*M. Kyprianou*, Counsel of the Republic, for the Respondent.

VASSILIADES, P.: Mr. Justice Triantafyllides will deliver the judgment of the Court.

TRIANAFYLLIDES, J.: This is an appeal from the decision of a Judge of this Court dismissing the recourse of the Appellant (No. 144/67)\* against a decision of the Director of Lands and Surveys regarding the description of the boundaries of Appellant's property. The recourse was dismissed on the ground that the Director's decision was not within the jurisdiction under Article 146 of the Constitution, as it was administrative action within the domain of private law and not that of public law. In this respect the learned trial Judge relied mainly on the case of *Valana* and *The Republic*, 3 R.S.C.C. 91.

\* Reported in this Part at p. 38 *ante*.

The present appeal was made on two grounds: Firstly, that it was erroneous to treat the matter in question as not being within the domain of public law, and, secondly, that the recourse was dismissed because of lack of jurisdiction—which was treated as a preliminary legal issue—without the trial Judge having gone into “the full facts and circumstances of the case”, before deciding on the issue of jurisdiction.

During, however, the hearing of the Appeal counsel for Appellant has, quite fairly, conceded that there was not really anything, by way of “facts and circumstances” of the case, which was relevant to the issue of jurisdiction and which could not be gathered adequately from the pleadings and from what had been stated before the trial Judge by counsel during argument.

Coming, next, to the contention of the Appellant that the matter concerned is within the domain of public law, and not that of private law, we are of the view that we cannot accept such contention and that the trial Judge rightly dismissed the recourse for lack of jurisdiction: The Appellant is complaining in these proceedings against administrative action relating to the boundaries of his property; the fact that such action was taken in relation to a claim of the Government to a part of *his property, which allegedly had been ceded to the Government* by his predecessor in title, is not sufficient to deprive the said action of its true nature, viz. action defining civil rights in property and being, thus, within the domain of private law, and not action taken by the administration within the domain of public law.

We see no reason for holding that this case is distinguishable from the *Valana* case (*supra*) merely because a title-deed originally issued to the Appellant had later on to be revoked in the light of what in the view of the competent authority appeared to be the correct position, or because this is not an instance, as in the *Valana* case, where a decision was taken under section 61 of the Immovable Property (Tenure, Registration and Valuation) Law (Cap. 224).

For these reasons, this appeal must fail and is dismissed.

Counsel for the Respondents having, quite properly in the circumstances, not claimed any costs, we shall make no order as to the costs in this appeal.

*Appeal dismissed. No order as to the costs in the appeal.*