[TRIANTAFYLLIDES, P., A. LOIZOU, MALACHTOS, JJ.]

THE ELECTRICITY AUTHORITY OF CYPRUS,
Appellant-Plaintiff,

v.

GEORGHIOS GEORGALLETTOS AND OTHERS,
Respondents-Defendants.

(*Civil Appeals Nos.* 5042-5046).

Landlord and Tenant—Rent control—Business premises—The Rent Control (Business Premises) Law, 1961 (*Law No.* 17 *of* 1961)—*Contractual tenancy from month to month—Duly terminated by notice rendering it a statutory tenancy on expiry of notice—Three months' notice under section* 10 (1) (*h*) *of the said Law—It can be validly given during the currency of the contractual tenancy (and of the notice terminating it) provided that such three months' notice is to take full effect at least three months from the date when the contractual tenancy has become a statutory one—Cf. further* infra.

Rent control—Business premises—The statutory three months' notice to quit—Section 10 (1) (h) *of the said statute—Validity—" Not less than three months' notice in writing " to be given—Notice given on June* 25, 1971, *requiring vacant possession " after the lapse of three months from June* 30, 1971, *namely on the* 30*th September*, 1971 "—*A valid one—Three full months' notice required* (*not* three clear months) *under said section* 10 (1) (h).

Business Premises—Rent Control—Section 10 (1) (*h*) *of the Rent Control (Business Premises) Law*, 1961 (*Law No.* 17 *of* 1961)—*Notice thereunder—Validity—Requisites—See* supra.

Words and Phrases—" Not less than three months' notice " in section 10 (1) (*h*) *of the Rent Control (Business Premises) Law*, 1961 (supra).

Costs—Cases under the Rent Control Laws—Costs need not follow the event.

Practice—Costs—In cases under the Rent Control Laws—See immediately hereabove.

It is common ground that the respondents were, originally, tenants from month to month of the business premises of the

appellant corporation and that their said contractual tenancies were duly terminated with effect as from June 30, 1971, by notices given to each one of them on May 14, 1971 ; thus the respondents became statutory tenants of the premises in question as from June 30, 1971, under the provisions of the Rent Control (Business Premises) Law, 1961 (Law No. 17 of 1961). By notices given to the respondents on June 25, 1971, they were asked to vacate the premises in question " after the lapse of three months from the 30th June, 1971, namely on 30th September, 1971 ". The respondent having failed to comply, the appellant corporation instituted actions in the District Court of Limassol for the recovery of possession of the said business premises under section 10 (1) (h) of the aforesaid Rent Control etc. etc. Law 1961 which provides :

" No judgment or order for the recovery of possession of any business premises ..... shall be given or made except in the following cases :—

....

(*h*) where the business premises are reasonably required by the landlord for the substantial alteration or reconstruction thereof in such a way as to effect the business or for the demolition thereof, and the Court is satisfied that the landlord has, where necessary, obtained the necessary permit for such alteration, reconstruction or demolition *and has given to the tenant not less* than three months' notice in writing to vacate the business premises ".

The trial Judge dismissed the actions on the ground that the aforesaid notices (in writing) of the 25th June, 1971, were not validy given, because of the fact that they were given during a period when the respondents were still contractual tenants from month to month and before they had become statutory tenants by operation of the aforementioned notices given on the 14th May, 1971 (*supra*). Counsel for the respondents took a further point before the Court of Appeal which may be briefly stated as follows : the three months' notices should have been framed so as to take effect not " from the 30th June, 1971 ", but " after the 30th of June, 1971 ", so as to be notices of three *clear months.*

Allowing the appeals, the Supreme Court :—

Held, (1). We cannot agree with the view of the trial Court that the said notices of the 25th June, 1971, were not validly

given because they were given during the period when the respondents were still contractual tenants from month to month and before they had become statutory tenants of the premises by operation of the aforementioned notices of May 14, 1971. In construing sub-section (1) (h) of section 10 of the statute (*supra*) we can find nothing which prevents the giving of the relevant three months' notices during the currency of a notice to a contractual tenant from month to month which will render such tenant on its expiry a statutory tenant, provided that the three months' notice is to take effect three months from when the tenant has become a statutory tenant.

(2) As to the point raised by counsel for the respondents that the three months' notice under section 10 (1) (h) should be *three clear months'* notice (*supra*), we cannot find merit in this submission. Section 10 (1) (h) of the Law (*supra*) requires that there should be given " not less than three months notice " and, in our view, such a notice was given to all respondents by means of the aforesaid notices of June 25, 1971 (*supra*), because the tenants were thereby required to vacate the premises " after the lapse of three months from the 30th June, 1971, namely on the 30th September, 1971 ". This, in effect, means that three full months' notice was given to the respondents, that is as from midnight at the end of June 30, up to midnight at the end of September 30, 1971 (cf. *Schnabel* v. *Allard* [1966] 3 All E.R. 816 ; *R.* v. *Long* [1960] 1 Q.B. 681 ; *Re Hector Whaling Ltd.* [1936] Ch. 208).

Appeals allowed ; *no order as to costs.*

Cases referred to :

Schnabel v. *Allard* [1966] 3 All E.R. 816 ;

R. v. *Long* [1960] 1 Q.B. 681 ;

Re Hector Whaling, Ltd. [1936] Ch. 208 ;

Galatariotis v. *Polemitis,* 20 C.L.R. Part II 70.

Appeals.

Appeals by plaintiff against the judgments of the District Court of Limassol (Michaelides, Ag. D. J.) dated the 24th January, 1972, (Action Nos. 3600/71–3604/71) whereby its actions for the recovery of possession of business premises under section 10 (1) (*h*) of the Rent Control (Business Premises) Law, 1961 (Law 17/61) were dismissed.

P. Cacoyiannis, for the appellant.

A. Lemis, for the respondents.

The judgment of the Court was delivered by :—

TRIANTAFYLLIDES, P. : By these five consolidated appeals there have been appealed from judgments dismissing five actions instituted by the appellant against several tenants of its premises in Limassol, who are the respondents in these appeals.

Though the actions were not tried together, the judgments given in them are identical, except that in the judgment which was given in action 3603/71, there is contained, also, an order for the payment of arrears of rent up to the 1st September, 1971.

All the actions were actions for the recovery of possession of business premises of the appellant, under section 10 (1) (*h*) of the Rent Control (Business Premises) Law, 1961 (17/61). The said section provides that :—

> " No judgment or order for the recovery of possession of any business premises, to which this Law applies, or for the ejectment of a tenant therefrom, shall be given or made except in the following cases :—
>
> .....
>
> (*h*) where the business premises are reasonably required by the landlord for the substantial alteration or reconstruction thereof in such a way as to affect the business premises or for the demolition thereof, and the Court is satisfied that the landlord has, where necessary, obtained the necessary permit for such alteration, reconstruction or demolition and has given to the tenant not less than three months' notice in writing to vacate the business premises ;"

It is common ground that the respondents had been, originally, tenants from month to month of the business premises of appellant and that their tenancies were terminated, with effect as from the 30th June, 1971, by letters sent to each one of them on the 14th May, 1971 ; thus they became statutory tenants who remained in the premises under the protection of Law 17/61.

Before us it was agreed that there was nothing wrong with giving to the respondents the three months' notices, provided in subsection (1) (*h*) of section 10, on the 25th June, 1971, that is before the expiry of the earlier notices which were sent on the 14th May, 1971 ; the former notices required the respondents to deliver vacant possession after

the lapse of three months from the 30th June, 1971, when the latter notices were to take effect rendering the respondents statutory tenants.

The trial Judge was of the opinion that the said notices of the 25th June, 1971, were not validly given, because of the fact that they were given during a period when the respondents were still tenants from month to month and before they had become statutory tenants by operation of the notices given on the 14th May, 1971. We cannot agree with this view of the trial Judge : In construing subsection (1) (*h*) of section 10 we can find nothing which prevents the giving of the relevant three months' notice during the currency of a notice to a tenant from month to month which will render such tenant on its expiry a statutory tenant, provided that the three months' notice is to take effect three months from when the tenant has become a statutory tenant.

What counsel for the respondents has argued today is that the trial Judge was wrong in treating as valid for the purposes of section 10 (1) (*h*) the notices of the 25th June, 1971, which called upon the respondents to deliver vacant possession after the lapse of " three months from the 30th June, 1971, namely on the 30th September, 1971 "; he submitted that the three months' notices should have been not " from the 30th June ", but " after the 30th June ", so as to be notices of three *clear* months. We cannot find merit in this submission : Section 10 (1) (*h*) of Law 17/61 requires that there should be given " not less than three months' notice " and, in our view, such a notice was given, in substance, to all the respondents by means of the notices dated 25th June, 1971, because they were asked to vacate the premises in question " μετὰ παρέλευσιν τριῶν μηνῶν ἀπὸ τῆς 30ῆς Ἰουνίου, 1971 ἤτοι κατὰ τὴν 30ὴν Σεπτεμβρίου, 1971, " (" after the lapse of three months from the 30th June, 1971, namely on the 30th September, 1971 "), and this, in effect, means that three full months' notice was given to the respondents, that is as from midnight at the end of the 30th June, 1971, up to midnight at the end of the 30th September, 1971. It is, moreover, to be noted that in construing an analogous provision in the Rent Act, 1957 (section 16) about notice of " not less than four weeks " the Court of Appeal in England held in *Schnabel* v. *Allard* [1966] 3 All E.R. 816, that the requirement that periods of time should be exclusive of *both* the starting date and the terminal date (as in *R.* v. *Long* [1960] 1 Q.B. 681, and *Re Hector Whaling, Ltd.* [1936] Ch. 208), which is applicable

to periods within which procedural steps, must be taken, does not apply to a statute dealing with relations between landlord and tenant.

As the requirement as to notice for the making of an order for vacant possession, against each respondent, under section 10 (1) (*h*), was complied with and as it cannot be disputed that the other prerequisites laid down by such section existed, it follows that these appeals should be allowed ; and we, hereby, make an order that each respondent should deliver to the appellant vacant possession of the premises occupied by him as a statutory tenant ; but, in the exercise of our powers under subsection (2) of section 10, we stay the execution of the eviction orders up to, and including, the 30th June, 1972.

Regarding the question of mesne profits, as from the 1st October, 1971, we order that they should be paid by each respondent until delivery of vacant possession of the premises and shall be calculated on the basis of the monthly rents payable before the said date.

There remains the question of costs : All five actions were dismissed with costs against the appellant and, in view of the outcome of the appeals, the question arises whether we should make any order of costs in favour of the appellant in the Court below or in this Court. This matter has not been pressed much by learned counsel for the appellant and, in any case, in the light of the view expressed in *Galatariotis* v. *Polemitis*, 20 C.L.R. Part II 70, to the effect that the practice that costs follow the event need not be the same in cases for the recovery of possession of premises protected by the rent restriction legislation, as well as in the light of all other relevant considerations, we shall make no order as to costs in these proceedings, either before the trial Court or on appeal.

In the result, the appeals are allowed and orders for possession and payment of mesne profits are made as aforesaid ; of course, the order for payment of arrears of rent, made in civil action No. 3603/71 (to which relates appeal No. 5045), and the relevant order for costs, remain unaffected.

Appeals allowed ; no order as to costs.