

1979 April 16

[TRIANTAFYLIDIS, P., STAVRINIDIS, L. LOIZOU,  
HADJIANASTASSIOU, A. LOIZOU, JJ.]

THE REPUBLIC OF CYPRUS, THROUGH  
THE SENIOR MINES OFFICER,

*Appellant.*

v.

CHARALAMBOS SARANTI,

*Respondent.*

( Revisional Jurisdiction Appeal No. 148).

5 *Administrative Law — Administrative Acts — Revocation — Principles applicable—Lawful administrative acts—May be revoked, on grounds of public interest—Prospecting permit granted under section 13 of the Mines and Quarries (Regulation) Law, Cap. 270—Revocation of, justified by an important matter of public interest, namely the protection of the environment and the prospective touristic exploitation of the area.*

10 *Mines and Quarries (Regulation) Law, Cap. 270— Prospecting permit— Revocation—May take place on grounds of public interest— Section 18 of the Law—Not a provision prescribing exhaustively the grounds for revoking a prospecting permit—But primarily intended to ensure compliance with the Law and the conditions of a permit.*

15 The respondent in this appeal obtained a prospecting permit under section 13 of the Mines and Quarries (Regulation) Law, Cap. 270 valid for a year as from the 10th January, 1972. As the area affected by the permit had touristic importance, when the Director of the Cyprus Tourism Organization came to know about the permit he inquired as to why the appellant issued  
20 the permit before asking their views and requested that the possibility of cancelling the permit be considered. By letter dated 3rd March, 1972 the Senior Mines Officer informed the respondent—who until then had not carried out any prospecting work in the area—that on account of new facts the permit

might be cancelled and it was advisable for him not to proceed with any prospecting work in order not to incur any expenses. Eventually on August 29, 1972, the Senior Mines Officer informed the respondent that his permit was cancelled because the area was considered of touristic importance and mine works would cause irreparable damage to the natural environment. 5

The trial Judge annulled the decision to revoke the said permit, on the ground that such permit could only be cancelled under section 18 of the Mines and Quarries (Regulation) Law, Cap. 270, the general principles of administrative law being inapplicable where express statutory provision regulates the question of revocation of administrative acts. 10

Upon appeal by the Senior Mines Officer:

*Held, (per A. Loizou J., Triantafyllides, P., Stavrinides, L. Loizou and Hadjianastassiou, JJ. concurring)* that section 18 of the Mines and Quarries (Regulation) Law, Cap. 270, is not a provision prescribing exhaustively the grounds for revoking a prospecting permit, but it is primarily intended to ensure compliance with the Law and the conditions of a permit. 15

(2) That though the modern trend in Administrative Law is to narrow down the power of revocation of lawful administrative acts, yet such a course is not totally excluded, when in particular, pressing questions of public interest call for the exercise of the discretion of the administration for that purpose. 20

(3) That as it may be deduced from the whole tenor of Cap. 270 a prospecting permit may be refused on the ground of public interest; that, likewise, such a permit may be revoked if the public interest was overlooked when it was granted; that the protection of the environment and the prospective touristic exploitation of an area constitute a matter of public interest; that, therefore, an important matter of public interest justified the administrative organ concerned to revoke as it did the permit in question; and that, accordingly, the appeal must be allowed. (See Cases Nos. 1025/38 and 2413/71 of the Greek Council of State.) 25 30 35

*Per Triantafyllidis, P.:*

I am in agreement with the judgment delivered by my brother Judge Mr. Justice A. Loizou. I would merely like to point out that the approach adopted in the said judgment is not to

be regarded as inconsistent with the judgment delivered in the case of *Charalambides v. The Republic*, 1964 C.L.R. 326, by the then Full Bench of the Supreme Court, of which, at the time, I was a member. It is correct that in the latter judgment there is a quotation of a passage from the textbook of Stassinopoulos "Discourses in Administrative Law", 1957, p. 258, wherein it is stated that lawful administrative acts out of which have flowed rights for the subject cannot be revoked; but, in the *Charalambides* case there was neither raised nor argued the issue of whether even such administrative acts can be revoked on the ground of public interest, as it has been constantly held by the Council of State in Greece (see, *inter alia*, the decisions in the two cases already quoted in his judgment by Mr. Justice A. Loizou, Nos. 1025/1938 and 2413/71).

15 *Appeal allowed.*

Cases referred to:

*Antoniades & Co. v. Republic* (1965) 3 C.L.R. 673;

*Case Nos. 1025/38 and 2413/71 of the Greek Council of State: Charalambides v. Republic*, 1964 C.L.R. 326.

20 **Appeal.**

Appeal against the judgment of a Judge of the Supreme Court of Cyprus (Malachtos, J.) given on the 28th June, 1974 (Revisional Jurisdiction Case No. 370/72) whereby the decision of the appellant to revoke a prospecting permit granted to the respondent was declared null and void.

*N. Charalambous*, Counsel of the Republic, for the appellant.

*A. Pandelides*, for the respondent.

*Cur. adv. vult.*

30 TRIANTAFYLLOIDES P.: The first judgment will be delivered by Mr. Justice A. Loizou.

A. LOIZOU J.: This is an appeal by the Attorney-General from the judgment\* of a Judge of this Court whereby the decision of the Senior Mines Officer to revoke a prospecting permit which had been granted to the respondent was declared null and void and of no legal effect, on the ground that such permit could only be cancelled under the provisions of section 18 of

\* Reported in (1974) 3 C.L.R. 338.

the Mines and Quarries (Regulation) Law, Cap. 270, (to be referred to hereinafter as "the Law"), the general principles of administrative law being inapplicable where express statutory provision regulates the question of revocation of administrative acts.

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The facts as found by the learned trial Judge are as follows:-

The respondent obtained a prospecting permit under section 13 of the Law valid for a year as from the 10th January, 1972, covering an area situate between the Pera Pedhi Main State Forest and the village of Moniatis, in the Limassol district. On coming to know about it the Director of the Cyprus Tourism Organization, by letter dated 5th February, 1972, (*exhibit 4*), informed the Director General of the Ministry of Commerce and Industry, within whose jurisdiction the Department of Mines comes, that the said prospecting permit covered that part of the inhabited area of the mountain summer resort of Pera Pedhi, and the beautiful hills to its north, which dominate it and which are visible from the touristic roads of Pera Pedhi-Platres and Saitta-Moniati-Platres; he inquired as to why, the said Department issued this prospecting permit before asking, as it is usual, their views for an area which obviously had touristic importance, and informed him that as the Government had for a long time been making continuous efforts to revive the suffering mountainous resorts, his Organization could not agree to the destruction of their natural environment with all the adverse consequences that that would entail, and he concluded by requesting the Director General to consider the possibility of cancelling the said permit.

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The Senior Mines Officer, to whom this objection of the Cyprus Tourist Organization was referred to by letter dated 3rd March, 1972, informed the respondent—who admittedly until then had not carried out any prospecting work in the area—that on account of new facts the prospecting permit granted to him might be cancelled and therefore it was advisable for him not to proceed with any prospecting work in order not to incur any expenses. Eventually on the 29th August, 1972, the Senior Mines Officer, by letter (*exhibit 2*), informed the respondent that his prospecting permit was cancelled. It reads:

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" .....

You have already been notified by my letter dated 3rd

March, 1972, that this prospecting permit might be cancelled and you were advised not to proceed and incur prospecting expenses.

5 The reasons for the cancellation of the prospecting permit are that this area is considered of touristic importance and mine works would cause irreparable damage to the natural environment.

10 The sum of £24.— which you paid for rent for the first year will be refunded to you through the Accountant-General”.

The grounds of law upon which this appeal was argued were that:

- 15 (a) Section 18 of the Law, did not exclude the application of the general principles of administrative law on matters of revocation, inasmuch as same was not exhaustively laying down the instances on which a prospecting permit may be revoked, but only made provision for the cancellation of a prospecting permit in the cases where a holder failed to comply with or observe the provisions of the Law or any Regulations made thereunder or any term or condition of such permit; and
- 20 (b) The general principles of administrative law for the revocation of an administrative act on grounds of public interest are not excluded by the existence of specific statutory provisions governing the question of revocation.
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In the course of the hearing of this appeal we were invited by counsel and we gave a ruling on the effect of section 18 of the Law; we said:—

30 “ At this stage, having heard counsel for the respondent, we have reached the conclusion, in the light of what has been submitted by counsel on both sides, that section 18 of the Mines and Quarries (Regulation) Law, Cap. 270, is not a provision prescribing exhaustively the grounds for

35 revoking a prospecting permit, but it is primarily intended to ensure compliance with the Law and the conditions of a permit; this is to be derived, also, from the decision of a Judge of this Court in the case of *Yiangou and Another v. The Republic*, (1975) 3 C.L.R. 228, at p. 241 et seq.”.

I had the advantage of hearing extensive argument by learned counsel for both sides on the principles governing the revocation of administrative acts by reference to decisions of this Court, such as the case of *Antoniades & Co. v. The Republic* (1965) 3 C.L.R., p. 673, as well as decisions of the Greek Council of State and to a number of text-books and articles on the subject. It appears, and I fully share this view, that though the modern trend in Administrative Law is to narrow down the power of revocation of lawful administrative acts, yet such a course is not totally excluded, when in particular, pressing questions of public interest call for the exercise of the discretion of the administration for that purpose.

In the present case I have no difficulty in coming to the conclusion that an important matter of public interest justified the administrative organ concerned to revoke as it did the prospecting permit in question. In fact it acted expeditiously, and very prudently in informing the respondent in time about its intention to do so, so that no expenses would be incurred by him, by exercising his rights under the said permit. Needless to say that in the present case the administration might for the same reasons, adopt another course, by refusing to renew this permit upon the expiration of the year of its validity.

As it may be deduced from the whole tenor of the Mines and Quarries (Regulation) Law that a prospecting permit may be refused by the appropriate Authority on the ground of public interest, likewise such a permit may be revoked if the public interest was overlooked when it was granted, and I need hardly say that the protection of the environment and the prospective touristic exploitation of an area constitute a matter of public interest. Support for this proposition may be found in the decision of the Greek Council of State No. 1025/38 and No. 2413/71.

For all the above reasons I would allow this appeal.

STAVRINIDES J: I agree.

L. LOIZOU J: I, also, agree.

HADJIANASTASSIOU J: I agree, I have nothing to add.

TRIANTAFYLIDIS P.: I have read the judgment delivered by my brother Judge M1. Justice A. Loizou and I am in agreement with him.

I would merely like to point out that the approach adopted in the said judgment is not to be regarded as inconsistent with the judgment delivered in the case of *Charalambides v. The Republic*, 1964 C.L.R. 326, by the then Full Bench of the Supreme Court, of which, at the time, I was a member. It is correct that in the latter judgment there is a quotation of a passage from the textbook of Stassinopoulos "Discourses in Administrative Law", 1957, p. 258, wherein it is stated that lawful administrative acts out of which have flowed rights for the subject cannot be revoked; but, in the *Charalambides* case there was neither raised nor argued the issue of whether even such administrative acts can be revoked on the ground of public interest, as it has been constantly held by the Council of State in Greece (see, *inter alia*, the decisions in the two cases already quoted in his judgment by Mr. Justice A. Loizou, Nos. 1025/1938 and 2413/71).

TRIANTAFYLLIDES P.: In the result this appeal is allowed unanimously, but we make no order as to its costs.

*Appeal allowed. No order as to its costs.*