

CASES  
DECIDED BY  
THE SUPREME COURT OF CYPRUS  
ON APPEAL  
AND  
IN ITS ORIGINAL JURISDICTION

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Cyprus Law Reports  
Volume 3 (Administrative)

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1981 January 16

[L. LOIZOU, J.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

ALI M. RAMADY,

*Applicant,*

v.

THE REPUBLIC OF CYPRUS, THROUGH THE  
MINISTER OF INTERIOR AND ANOTHER

*Respondents.*

(Case No. 48/76).

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5 *Citizenship—Naturalization as citizen of the Republic—Section 6 of the Republic of Cyprus Citizenship Law, 1967 (Law 43/67)—Refusal of application because applicant was not of good character—Paragraph 1(c) of the Second Schedule to the Law—Conclusion as to applicant's character based on uncertain, ambiguous and unestablished statements—Which although denied remained unproven and unverified—Sub judice refusal defective—Annulled.*

10 *Administrative Law—Administrative acts or decisions—Defective administrative act—Decision refusing application for naturalization as citizen of the Republic—On ground that applicant was not of good character—Based on uncertain, ambiguous and unesta-*

*blished statements, which although denied remained unproven and unverified—Such decision defective—Annulled.*

The applicant in this recourse challenged the validity of the decision of the respondents to refuse his application for a certificate of naturalization as a citizen of the Republic of Cyprus. 5  
 The application was refused on the ground that applicant did not possess the qualifications required under paragraphs 1(a) and 1(c) of the Second Schedule to the Republic of Cyprus Citizenship Law, 1967 (Law 43/67). The qualifications required by paragraphs 1(a) and 1(c) related to residence in the Republic during the period of twelve months immediately preceding the date of the application and to the character of the applicant, respectively. The *sub judice* decision was taken by the respondent Minister of Interior and was expressed in one word “dismissed”. This decision was based on a submission of the Migration Officer to the Minister in which it was stated that the applicant was not a man of good character. The statement regarding applicant’s character was based on the contents of a letter from the Officer in Charge of the Central Information Services to the Migration Officer wherein it was, *inter alia*, stated that applicant was greedy for money, he had free access to the Turkish occupied areas and that because of this it was presumed that he was an agent of the Turks. Counsel for the applicant denied all allegations which were made against the applicant in the above letter of the Central Information Services but nothing was done by counsel for the respondents to substantiate such allegations. 10  
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*Held*, that the conclusion reached as to the character of the applicant was based on uncertain, ambiguous and unestablished statements which although denied remained unproven and unverified; and that, therefore, the decision challenged was defective and must be annulled. 30

*Sub judice decision annulled.*

*Observations with regard to the meaning and effect of paragraph 1(a) of the Second Schedule to Law 43/67.* 35

Cases referred to:

*Goulelis v. Republic* (1970) 3 C.L.R. 81;  
*Tzavellas and Another v. Republic* (1975) 3 C.L.R. 490;  
*Pikis v. Republic* (1967) 3 C.L.R. 562.

**Recourse.**

Recourse against the decision of the respondents whereby applicant's application for a certificate of naturalization as a citizen of the Republic of Cyprus was refused.

5        *G. Michaelides*, for the applicant.

*R. Gavrielides*, Senior Counsel of the Republic, for the respondents.

*Cur. adv. vult.*

10        *L. LOIZOU J.* read the following judgment. By the present recourse the applicant applies for a declaration that the decision of the respondents whereby his application for a certificate of naturalization as a citizen of the Republic of Cyprus was refused is null and void and of no effect on the ground that it is contrary to the Constitution and/or to the law and/or made  
15        in excess and/or abuse of powers and/or that it was based on a misconception of facts and also for a declaration that he is entitled to such certificate.

       The facts of the case in so far as they are relevant are briefly as follows:

20        The applicant is a British subject of Arab origin born in 1927 at Jaffa. Before coming to Cyprus he was employed by the British War Department in Jordan and after his services were terminated due to redundancy he applied for a transfer to Cyprus. He came to Cyprus in 1957 and was employed by  
25        the Civilian Establishment Pay Office of the British Ministry of Defence. He is still employed by the same employers in the Sovereign Base Areas. Up to the time of the Turkish invasion of Cyprus he was residing in Famagusta where he had his own house. In 1972, the applicant applied under s. 6 of Law 43  
30        of 1967 for naturalization as a citizen of the Republic of Cyprus and his application was refused. As a result he filed a recourse against such decision.— In-1975, while the recourse was pending, the applicant submitted another application to the authorities supported by supplementary facts in the form of certificates  
35        and requested that his application be re-examined. He was informed in reply that his application could not be re-examined while his recourse was pending and thereupon he withdrew that recourse.

40        On the 15th December, 1975, the applicant was informed by the respondents through his counsel that his application

had been carefully examined but that it was not found possible to approve it on the ground that the applicant did not possess the qualifications required under paragraphs 1(a) and 1(c) of the Second Schedule to the law. The letter in question is *exhibit* 3 in these proceedings. It reads as follows:

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“ Έν συνεχεία τῆς ἡμετέρας ἐπιστολῆς ὑπὸ τὸν αὐτὸν, ὡς ἄνω ἀριθμὸν, ἡμερομηνίας 22ας Ἰουλίου, 1975, ἐν σχέσει μὲ τὴν ἐπανεξέτασιν τῆς αἰτήσεως τοῦ πελάτου σας κ. Ἀλῆ Μ. Ράματν, διὰ πολιτογράφησιν, ἐπιθυμῶ νὰ σᾶς πληροφορήσω ὅτι τὸ ὅλον θέμα ἐπανεξετάσθη μετὰ πάσης προσοχῆς, ληφθέντων ὑπ’ ὄψιν καὶ τῶν ὑπὸ τοῦ πελάτου σας ὑποβληθέντων ἐγγράφων (ὑμετ. ἐπιστ. ἡμερομηνίας 9/6/75), ἀλλὰ ὁ Ὑπουργὸς Ἐσωτερικῶν δὲν ἠδυνήθη νὰ ἐγκρίνη τὴν αἴτησιν πολιτογραφῆσεως, διὰ τὸν λόγον ὅτι ὁ ἐν θέματι πελάτης σας δὲν κατέχει τὰ ὑπὸ τῶν παρ. 1(α) & (γ) τοῦ Δευτέρου Πίνακος τοῦ Νόμου 43/67, ἀπαιτούμενα προσόντα”.

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(“Further to my letter under the above number, dated 2nd July, 1975, on the subject of the re-examination of the application of your client Mr. Ali M. Ramady for naturalization, I wish to inform you that the whole subject has been re-examined with all care by taking also into consideration the documents submitted by your client (your letter dated 9.6.75), but the Minister of Interior has not been able to approve the application for naturalization, for the reason that your above client does not possess the qualifications required by para. 1(a) & (c) of the Second Schedule to Law No. 43/67”).

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The qualifications required by paragraphs 1(a) and 1(c) of the Second Schedule to the law relate to residence in the Republic during the period of twelve months immediately preceding the date of the application and to the character of the applicant, respectively. As a result the present recourse was filed.

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The grounds of law upon which the application is based are as follows:

(1) The said decision of the respondents is contrary to the Republic of Cyprus Citizenship Law, 1967, and that although the applicant is qualified for naturalization under the provisions of s. 6 and the Second Schedule of the said Law, the respondents have refused to grant to him a certificate of naturalization.

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(2) The respondents have acted contrary to the principles of Administrative Law in that they acted under a misconception as to the facts and/or failed to make a due enquiry of all material facts and/or failed to take into consideration and/or give proper weight to material facts in favour of the applicant.

(3) The respondents have acted contrary to Article 29 of the Constitution in that the decision communicated to the applicant was not duly reasoned. This ground was not pursued by counsel for the applicant and a fourth ground of law relating to discrimination was expressly abandoned.

By their Opposition the respondents maintain that the *sub-judice* decision was lawfully taken on the basis of the facts and circumstances of the case and that their discretion was correctly exercised. It was further stated in the facts in support of the Opposition that the applicant had engaged in business without the requisite permit from the Migration Officer contrary to the provisions of regulation 21(3) of the Aliens and Immigration Regulations and that in consequence he was repeatedly prosecuted and put the authorities to a lot of trouble. This last allegation proved to be wrong as the applicant was in fact prosecuted only once for an offence under the above Regulations and the prosecution proved to be ill-founded and misconceived and he was acquitted of the offence.

The *sub judice* decision of the Minister is to be found in minute 71, in applicant's file which is *exhibit* 5 before this Court. It is expressed in one word "ἀπορρίπτεται" (dismissed). The immediately preceding minute (70) is the submission of the Migration Officer to the Minister on which, quite obviously, the decision is based. In his minute 70 the Migration Officer sets out the history and background of the case and then he comes to the question of the re-examination of applicant's application. He informs the Minister that the matter was again referred to the officer in charge of the Central Information Services for his views concerning the character of the applicant and that he objects to the approval of the application and he concludes that since the authorities of the Republic did not consider the applicant as a man of good character he should not be considered as possessing the qualifications required by paragraph 1(c) of the Second Schedule to the law. But in addition to the above the Minister is informed in the same minute that, on advice from the Legal Department, the applicant

does not possess the qualifications required by paragraph 1(a) of the Second Schedule i.e. the residential qualifications either, as during the period of the twelve months immediately preceding the date of his application he was out of Cyprus for six days having travelled to Lebanon. As stated earlier on these two reasons are given to applicant's counsel for rejecting his client's application in the letter *exhibit 3*. 5

It was submitted by learned counsel for the applicant and conceded by learned counsel for the respondents that the statement in the submission to the Minister that the applicant did not possess the qualifications under paragraph 1(a) of the Second Schedule to the law was not correct and that the applicant did, in fact, possess such qualifications; and in fact the legal advice on this point which is in minute 53 of applicant's file is to this effect i.e. that the gap of his short stay abroad did not affect the requirements of the paragraph. 10 15

As to the qualifications required under paragraph 1(c) i.e. that the applicant should be of good character it was, *inter alia*, submitted by counsel for the applicant that the information placed before the Minister was based on mere suspicions and that, therefore, the exercise of his discretion was vitiated. In support of his submission counsel cited the case of *Goulelis v. The Republic* (1970) 3 C.L.R. 81 and *Tzavellas and Another v. The Republic* (1975) 3 C.L.R. 90. 20

Learned counsel for the respondents, on the other hand, submitted that although the applicant did possess the qualifications required by paragraph 1(a) of the Second Schedule and that it was wrongly stated in the submission to the Minister that he did not possess such qualifications what really weighed in the mind of the Minister was the statement that he was not a man of good character which was based on information given in the letter of the officer in charge of the Central Information Services, red 157 in the file, *exhibit 5*. 25 30

Although there is nothing in the file to support this view or to give any clue as to what weighed in the Minister's mind in reaching the decision complained of it is, I think, pertinent to look at the letter red 157 on which obviously the statement in the submission to the Minister relating to applicant's character is based especially in view of the fact that in administrative law an act or decision validly based on one out of several given 35 40

reasons may, in certain circumstances, be upheld irrespective of the validity of any of the other reasons (see, inter alia, *Pikis and The Republic* (1967) 3 C.L.R. 562).

5 In the letter in question the officer in charge of the Central Information Services informs the Migration Officer that before the invasion when the applicant was residing in Famagusta he ran a shipping agency and that one of the partners was a Turkish Cypriot. This allegation was denied by applicant's  
10 applicant and three Greek Cypriots and that this could be easily ascertained by inspecting the relative file. Nothing was stated or done by counsel for the respondents to substantiate the allegation of the writer of the letter red 157.

15 In the next paragraph of the letter it is stated that the applicant is greedy for money, that he has free access to the Turkish occupied areas and that because of this it is presumed (ἐικάζεσθαι) that he is an agent of the Turks. Lastly it is stated that the applicant maintains close relations with the Arabs and especially so with members of the Embassy of an Arab  
20 state named in the letter and that he is considered by the English authorities as an agent of the Arabs. In so far as the allegation that the applicant had free access to the occupied areas is concerned from which it was presumed that he was an agent of the Turks it was denied by counsel for the applicant and he,  
25 in fact, produced a letter addressed to the applicant by the Turkish side refusing an application of his for permission to return and settle in his house at Famagusta. No attempt was made by counsel for the respondents to substantiate the allegation by evidence or otherwise. As to the allegations regarding  
30 his greed for money and his pro-Arab feelings I must confess that I am at a loss to understand from the single word decision if these were considered as matters which showed that the applicant was a man of bad character.

35 Bearing in mind all the above it seems to me that the conclusion reached as to the character of the applicant was based on uncertain, ambiguous and unestablished statements which although denied remained unproven and unverified.

In the light of the above I feel constrained, on the material before me, to hold that the decision challenged was defective

and must be annulled; but in all the circumstances I do not propose to make any order as to costs.

Having said this I feel that I must put on record for the purposes of any future re-examination of this application that in spite of the submissions of counsel on both sides to the effect that applicant did possess the necessary residential qualifications I have my reservations as to the correctness of their understanding of the meaning and effect of paragraph 1(a) of the Second Schedule to the law. Having regard to the wording of this paragraph it may well be that the test whether an applicant possesses the qualifications thereunder is not whether he resided in Cyprus for a period of twelve months immediately preceding his application but also whether such residence was continuous. I have considered the desirability of reopening this case in order to hear argument on the point but I finally decided against this course mainly in view of the fact that even assuming that the residence envisaged by the paragraph should be continuous and uninterrupted, which would mean that this applicant did not in fact possess the qualifications required thereunder, such fact would not in the circumstances of this case and having regard to the dates of his absence (30.6.1972–6.7.1972) and the date of his original application (31.8.1972) necessarily in itself be fatal to the outcome of his application in view of the provisions of paragraph 2(a) of the same Schedule to the law which provides a remedy by giving the Council of Ministers discretion to allow a continuous period of twelve months ending not more than six months before the date of the application to be reckoned for the purposes of paragraph 1(a) as if it had immediately preceded that date.

*Sub judice decision annulled. No order as to costs.*