

1983 April 21

[HADJIANASTASSIOU, STYLIANIDIS AND PIKIS, JJ.]

LEANDROS HADJIMARCOU.

Appellant-Respondent.

v.

SOTERIOS VASILIOU HARDJIOTIS.

Respondent-Applicant.

(Civil Appeal No. 6275)

*Debtors' Relief (Temporary Provisions) Law, 1979 (Law 24/79)—
Displaced debtor—"Center of business" in section 2 of the Law
—Meaning.*

*Costs—Rule that costs follow the event not rigidly applied in proceedings
under the Debtors' Relief (Temporary Provisions) Law, 1979* **5**
(Law 24/79).

In proceedings instituted by the respondent under the Debtors' Relief (Temporary Provisions) Law, 1979 (Law 24/79) for a declaration that he was a displaced as well as a stricken debtor the trial Judge after finding that at the material time the respondent carried out two trades or was engaged in two occupations by being the owner of a shop at Hermes street and a pharmaceutical visitor, that the shop was the greater source of respondent's income; and that his activity concentrated primarily on the shop proceeded to hold that the respondent had the center of his business at an area that had been rendered inaccessible by the Turkish invasion and was, therefore, a displaced person. **10** **15**

Upon appeal by the creditor it was contended that as a matter of proper construction of the provisions of section 2 of the Law a person carrying on two or more occupations could not be said to have the center of his business in anyone place. **20**

Held, (1) that by the expression "center of business" the legislature intended to extend protection to persons other than those who had their seat of business in areas no longer accessible; **25**

5 that a person could be said to have his center of business in one place if his business was multi-centered but control of the business was exercised from a particular center; that on the other hand, the expression center of business points to the place where one's business activities were primarily centered; the main occupation as opposed to lesser ones; and that this is the meaning of the expression "center of business" in the context of section 2; that in the light of the findings of the Court and the construction approved of the definition of displaced debtor indicated above, the learned trial Judge rightly reached the conclusion that respondent was a displaced person; accordingly the appeal must fail.

15 *Held*, further, that the rule that costs follow the event is not rigidly applied in proceedings of this nature; that greater flexibility in this area is consistent with the primary aim of the law to confer power to adjust the rights of citizens in the light of the tragic realities of 1974; and that, therefore, this Court are not derogating from the usual practice by making no order as to costs.

20 *Appeal dismissed.*

Cases referred to:

Evangelou and Another v. Ambizas and Another (1982) 1 C.L.R. 41.

Appeal.

25 Appeal by respondent against the judgment of the District Court of Nicosia (Hji Constantinou, S.D.J.) dated the 4th June, 1981 (Appl. No. 137/80) whereby the applicant was declared as a displaced debtor in accordance with the provisions of the Debtors' Relief (Temporary Provisions) Law, 1979 (Law 30 24/79).

Ph. Valiantis, for the appellant.

P. Lysandrou, for the respondent.

HADJIANASTASSIOU J.: The judgment of the Court will be delivered by Mr. Justice Pikis.

35 PIKIS J.: The respondent owed the appellant £682.845 mils a sum that the former sought to recover by raising an action before the District Court of Nicosia (Action No. 2758/80). Respondent claimed to be entitled to the benefit of the provisions

of the Debtors' Relief (Temporary Provisions) Law 24/79, and raised the present proceedings for a declaration that he is a displaced as well as stricken debtor and ancillary orders suspending the proceedings before the District Court in order to forestall any steps in execution that might be taken therein. After hearing the evidence of the parties Hadjiconstantinou S.D.J. made a declaration that respondent was a displaced debtor and as such entitled to the relief conferred upon displaced debtors by the provisions of Law 24/79. After reviewing the evidence before him the learned trial Judge formed the view that respondent had before the Turkish invasion the center of his business at an area rendered inaccessible as a result of the Turkish invasion notably at Hermes street Nicosia. Therefore, he qualified as a displaced debtor within the meaning of section 2 of Law 24/79.

It was admitted that at the material time the respondent carried out two trades or was engaged in two occupations. He was the owner of a shop at Hermes street that he managed with the aid of an assistant while continuing as a pharmaceutical visitor, an activity he had carried out for many years past. The trial Judge found as a fact that the shop was the greater source of his income, that his activity concentrated primarily on the shop in the stocking of which he had invested considerable sums of money part of which came from a loan that respondent contracted to finance the venture. The future plans of the respondent centered on his shop the management of which had become his dominant occupation by the time of the Turkish invasion. Thus he concluded that respondent had the center of his business at an area that had been rendered inaccessible by the Turkish invasion.

For the appellant we were invited to discharge the order allegedly unwarranted by the evidence or the findings made by the trial Court. Counsel rested his submission primarily on the interpretation of the definition of a displaced debtor supplied by section 2. In his contention as a matter of proper construction of the provisions of section 2 a person carrying on two or more occupations could not be said to have the center of his business in anyone place. The concept of "center of

business" as encountered in the context of section 2 is limited in its application to persons carrying on not more than one trade. At best counsel submitted the evidence of the respondent went towards establishing a case of strickenness but he could not
5 succeed on that score either because his case is elliptical in the absence of evidence of inability to repay his debt at the time of the hearing of the application. (See *Christakis Evangelou and Another v. Stavros Ambizas and Another* (1982) 1 C.L.R. 41).

10 We are unable to uphold the submission that the finding of the trial Court that respondent was a displaced debtor was wrong or subscribe to his preferred construction of section 2 of Law 24/79. The wording of the definition of a displaced
15 debtor suggests that the legislature intended to encompass every person displaced either on account of loss of residence or loss of his main occupational activity. It was a comprehensive provision intended to confer effective protection to those that materially suffered from displacement. Therefore relief
20 was granted apart from those who lost their residence to persons who had the "seat or center of their business in areas rendered inaccessible". It is reasonable to assume that by the expression "center of business" the legislature intended to extend protection to persons other than those who had their seat of business in
25 areas no longer accessible. A person could be said to have his center of business in one place if his business was multi-centered but control of the business was exercised from a particular center. On the other hand, the expression center of business points to the place where one's business activities were primarily centered; the main occupation as opposed to lesser
30 ones. This is, in our opinion, the meaning of the expression "center of business" in the context of section 2. In the light of the findings of the Court and the construction approved of the definition of displaced debtor indicated above, the learned trial Judge rightly reached the conclusion that respondent was
35 a displaced person. Therefore, we consider it unnecessary to hear respondent in reply. The appeal is dismissed. The rule that costs follow the event is not rigidly applied in proceedings of this nature. Greater flexibility in this area is consistent with the primary aim of the law to confer power to adjust the

rights of citizens in the light of the tragic realities of 1974. Therefore, we feel we are not derogating from the usual practice by making no order as to costs.

Appeal dismissed. No order as to costs.

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