

1984 June 27

[TRIANTAFYLIDIS, P.]

IN THE MATTER OF ARTICLE 146 OF THE CONSTITUTION

IFESTOS MARKIDES AND OTHERS,

Applicants,

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE COUNCIL OF MINISTERS AND OTHERS,

Respondents.

(Case No. 35/81).

Administrative Law—Executory act—Confirmatory act—Cannot be made the subject-matter of a recourse under Article 146 of the Constitution.

5 The applicants were the heirs of the late Erodotos Markides who applied on the 14th August 1969 for the cession to him of a plot of Government land because he had already built a house thereon. On the 3rd May 1976, his application was rejected by the Council of Ministers and was informed that it had been decided not to cede to him the said Government land and he was asked to vacate it. On the 27th October 1980 Counsel for the applicants sought, in effect, a re-examination of the matter and such re-examination was refused by a letter dated the 18th November 1980. Hence the present recourse.

15 *Held*, that the letter of the 18th November, 1980, does not contain an executory decision which might be challenged by the present recourse under Article 146 of the Constitution and that it is only a communication of a confirmatory nature which could not be made the subject-matter of such recourse; accordingly the recourse must fail.

20 *Application dismissed.*

Cases referred to:

Karseras v. Improvement Board of Strovolos (1983) 3 C.L.R. 144;

Spyrou v. Republic (1983) 3 C.L.R. 354;

Fournia Ltd. v. Republic (1983) 3 C.L.R. 262;

Pieri v. Republic (1983) 3 C.L.R. 614;

Goulielmos v. Educational Service Committee (1983) 3 C.L.R. 883;

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Razis v. Republic (1983) 3 C.L.R. 1017;

Pieri v. Republic (1983) 3 C.L.R. 1054;

Demos Farm Ltd. v. Republic (1983) 3 C.L.R. 1172;

Savva v. Republic (1984) 3 C.L.R. 20.

Recourse.

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Recourse against the decision of the respondents not to re-examine their claim to land belonging to the Government of the Republic.

A. Efstychiou, for the applicants.

M. Kyprianou, Senior Counsel of the Republic, for the respondents. 15

Cur. adv. vult.

TRIANTAFYLLIDES P. read the following judgment. The applicants' complaint in this case is that, by means of a letter of the District Lands Officer of Nicosia, dated the 18th November 1980, which was written in reply to a letter of their counsel dated the 27th October 1980, they were informed that it was not possible to re-examine the matter of their claim to land belonging to the Government of the Republic. 20

The applicants are the heirs of the late Erodotos Makrides who applied on the 14th August 1969 for the cession to him of the Government land in question because he had already built a house thereon. 25

On the 3rd May 1976, after his application had been rejected by the Council of Ministers, he was informed that it had been decided not to cede to him the said Government land and he was asked to vacate it. 30

On the 27th October 1980 counsel for the applicants sought, in effect, a re-examination of the matter and such re-examination

was refused by the letter of the 18th November 1980, which gave rise to the present recourse.

I have no doubt whatsoever that the said letter does not contain an executory decision which might be challenged by the present recourse under Article 146 of the Constitution and that it is only a communication of a confirmatory nature which could not be made the subject-matter of such recourse.

It is useful to refer on this point to the following case-law: *Karseras v. The Improvement Board of Strovolos*, (1983) 3 C.L.R. 144, *Spyrou v. The Republic*, (1983) 3 C.L.R. 354, *Fournia Ltd. v. The Republic*, (1983) 3 C.L.R. 262, *Pieri v. The Republic*, (1983) 3 C.L.R. 614, *Goulielmos v. The Educational Service Committee*, (1983) 3 C.L.R. 883, *Razis v. The Republic*, (1983) 3 C.L.R. 1017, *Pieris v. The Republic*, (1983) 3 C.L.R. 1054, *Demos Farm Ltd. v. The Republic*, (1983) 3 C.L.R. 1172 and *Savva v. The Republic*, (1984) 3 C.L.R. 20.

In the light of the foregoing this recourse has to be dismissed.

As this is a case in which it must have been quite obvious that no recourse could be made in respect of the aforesaid confirmatory letter of 18th November 1980, I have seriously considered ordering the applicants to pay the costs of the respondents and it is with great reluctance that I have decided in the end not to penalize them by means of an order as to the costs of this case.

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Recourse dismissed. No order as to costs.