

1985 June 26

[TRIANTAFYLIDIS, P., PIKIS AND KOURRIS, JJ.]

DINOS PIERIDES,

Appellant-Respondent,

v.

CHAROULLA YOULIELMOU,

Respondent-Applicant.

(Case Stated No. 209).

Rent Control Law 23/1983, section 11(1)(f)—Recovery of possession—Meaning of “parents” in the above section—Includes natural parents and no one else—Recovery of possession for use of dependent minor children—Not possible outside context of an application by the owner for recovery of possession for the needs of such owner’s family—Financial dependence on the owner in the context of the above section.

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Upon application under section 7 of the Rent Control Law 23/1983 by the appellant-respondent, who had been ordered by the Rent Control Court of Limassol to vacate the premises he occupied as statutory tenant in order for the premises to be made available for use by the parents-in-law of the owner and her minor children, six questions were stated for the opinion of the Supreme Court. These questions were reduced by the Court to the following three:

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(a) The meaning of the expression “parents” in the context of s.11(1)(f) of the Rent Control Law-23/83; and in particular whether it includes the parents-in-law of the owner.

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(b) The amenity of the owner under the Rent Control Law to recover possession of premises for the use of dependent minor children, and specifically whether possession may be recovered at the instance of the owner for

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use by members of the family outside the context of the needs for accommodation for the use of the family as such.

5 (c) The existence, if any, of evidence of dependency of the parents-in-law of the owner and the need for such evidence to support an application for recovery of possession of the premises for their use.

10 *Held, (1) As to question (a) above, that, notwithstanding the fact that it is common (but by no means universal) practice to address one's parents-in-law as father or mother, the word "parents" in its ordinary use connotes exclusively one's natural parents; and there is nothing to suggest that the legislature intended the word to have any meaning other than its ordinary meaning. The expression*
15 *"parents" in section 11(1)(f) of Law 23/1983 includes natural parents and no one else.*

20 *(2) As to question (b) above, that recovery of possession for use by anyone of the specified class of relations in section 11(1)(f) can only be granted for the independent needs for accommodation of such a relation. Recovery cannot be sought for the needs of dependent children outside the context of an application by the owner for recovery of possession for the needs of the owner's family.*

25 *(3) As to question (c) above, that in order for one to qualify as dependent on the owner, there must be a degree of financial dependency. On the assumption that parents-in-law are included in the definition of "parents" in section 11(1)(f) of the said Law, the premises in question could not be recovered for their use in the absence*
30 *of evidence of their financial dependence on the owner.*

The opinion of the Supreme Court is remitted to the Rent Control Court in order to consider and determine the case accordingly. The costs of the appeal will be borne by the respondent.

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*Remitted to trial Court.***Cases referred to:***Andreou v. Christodoulou (1978) 1 C.L.R. 192;*

Aitken v. Shaw (1933) S.L.T. (Sheriff Ct. 21).

Case stated.

Case stated by the Chairman of the Rent Control Court of Limassol relative to its decision of the 9th July, 1984 in proceedings under section 11(1)(f) of the Rent Control Law, 1975 (Law No. 36/75) instituted by Charoulla Youlielmou against Dinos Pierides whereby the tenant was ordered to vacate the premises at No. 9 Tritonos Street Limassol.

A. Poyadjis, for the appellant.

V. Harakis, for the respondent.

TRIANAFYLLIDES P.: The judgment of the Court will be delivered by Pikis, J.

PIKIS J.: This is an appeal by way of case stated from a decision of the Rent Control Court of Limassol (1). Six questions were stated for our opinion on the application of the tenant who was ordered to vacate the premises in order for the premises to be made available for use by the parents-in-law of the owner and her minor children. The premises occupied by the tenant are the first storey of a two-storey building owned by the owner. The ground floor is occupied by the owner and her family, made up of her husband and her four minor children, aged 14, 13, 11 and 7 respectively.

The questions raised may appropriately be reduced to the following three:

- (a) The meaning of the expression "parents" in the context of s. 11(1)(f) of the Rent Control Law - 23/83; in particular we are required to decide whether it includes the parents-in-law of the owner.
- (b) The amenity of the owner under the Rent Control Law to recover possession of premises for the use of dependent minor children. Specifically we are asked

(1) Section 7 of Law 23/83.

to opine whether possession may be recovered at the instance of the owner for use by members of the family outside the context of the needs for accommodation for the use of the family as such.

- 5 (c) The existence, if any, of evidence of dependency of the parents-in-law of the owner and the need for such evidence to support an application for recovery of possession of the premises for their use.

10 The history of the proceedings reveals that the completion of the case of the owner as developed at the trial was different from the one originally put forward. Whereas recovery of possession was sought for use by the parents of the owner, her application was amended in due course and recovery of possession was claimed for the parents-
15 in-law of the owner and minor children of the family. One other fact we must notice before pursuing the reasoning of the trial Judge is the absence of any evidence of financial dependency on the owner of her parents-in-law.

20 The trial Judge while acknowledging that the word "parents" (γονεϊκ) in its etymological and dictionary sense connotes the natural parents of a party, he found that the expression encompasses in the context of s.11(1)(f) of Law 23/83 one's parents-in-law as well. In so finding he derived support from the fact that people in Cyprus often
25 address their parents-in law with the word "father" or "mother" as the case may be. As a matter of fact it is common but by no means a universal practice to address one's parents-in-law as father or mother. Notwithstanding this fact the word "parents" in its ordinary use connotes
30 exclusively one's natural parents. And there is nothing to suggest that the legislature intended the word to have any meaning other than its ordinary meaning.

Even if we were to assume that parents-in-law were included in the definition of parents in s.11(1)(f), the premises could not be recovered for use by them in the absence
35 of evidence of financial dependence of the parents on the owner. And none was adduced before the trial Court. Al-

though we shall not attempt a comprehensive definition of dependency in the context of this section of the law, being unnecessary for the resolution of the issues before us, we may state that in order for one to qualify as a dependent on the owner, there must be a degree of financial dependency. 5

It is implicit from the wording of s. 11(1)(f) of Law 23/83 that recovery of possession by the owner for the use of the premises by anyone of his or her relations specified therein, that is, wife, children or dependent parents, must be associated with the needs for accommodation of such a relation. This can also be inferred from the nature of the need necessary to justify recovery of possession. As decided in *Andreou v. Christodoulou* (1978) 1 C.L.R. 192, the need must be definite and immediate (1). Where the need for the premises is associated with the needs of the family of the owner for accommodation, recovery must be sought for the needs of the owner. It appears that the owner did not seek recovery of possession for the needs of the family because the two storeys are divided into separate tenements inamenable for use as a combined household. 10
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For the reasons indicated above, the three questions defined at the outset of this judgment are answered as follows:-

- (a) The expression "parents" in s. 11(1)(f) includes natural parents and no one else. 25
- (b) Recovery of possession for use by anyone of the specified class of relations in s. 11(1)(f) can only be granted for the independent needs for accommodation of such a relation. Recovery cannot be sought for the needs of dependent children outside the context of an application by the owner for recovery of possession for the needs of her family. 30
- (c) Recovery of possession for the use of parents can only be sought if the latter are to a degree financially dependent of the owner. 35

(1) See also *Aitken v. Shaw* (1933) S.L.T. (Sheriff Ct. 21)—Woodfall, *Landlord and Tenant*, 27th Ed., Vol. 2, p. 1548.

The opinion of the Supreme Court is remitted to the Rent Control Court in order to consider and determine the case accordingly. The costs of the appeal will be born by the respondent.

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Remitted to trial Court.