

1985 December 30

[SAVVIDES, J.]

IN THE MATTER OF ARTICLE 146  
OF THE CONSTITUTION

MICHAEL MAVRONICHIS,

*Applicant,*

v.

- THE REPUBLIC OF CYPRUS, THROUGH
1. DIRECTOR OF THE DEPARTMENT OF CUSTOMS  
AND EXCISE,
  2. MINISTER OF FINANCE,

*Respondents.*

(Case No. 271/83).

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5 *The Customs and Excise Duties Laws 1978-1981—S. 11(2) and*  
*sub-heading 19 of item 0.1 of the Fourth Schedule—Order*  
*of the Council of Ministers 151/81—Replaced and repealed*  
*by Order 188/82 enacted on 11.6.82—Exemption from*  
*import duty of Motor Vehicles of Tariff Heading 87.02.19*  
*imported by Cypriots—A continuous for a period of at*  
*least ten years permanent residence abroad is a necessary*  
*prerequisite under both the above orders—Period spent*  
10 *by a Cypriot as a student in a foreign country not con-*  
*sidered as “permanent residence”—Comparison between*  
*the provisions of Order 151/81 and Order 188/82.*

15 The applicant, a holder of a Cypriot Passport, left Cy-  
prus for the U.K. on the 15.9.67 after he had obtained a  
visa from the U.K. authorities to enter as a temporary  
visitor. In the summer of the following year he returned  
to Cyprus and then he re-entered the U.K. on a visa as  
a student. Whilst in England he followed accounting  
courses and entered into a term of articles of clerkship in  
the field of accountancy as from October 1969. By notice  
20 dated the 26.5.72 his articles were terminated with effect  
as from 31.7.72 on the ground that he failed to pass the

Intermediate Examinations. Upon receipt of the notice the applicant took employment with a firm in June 1972. On 29.12.72 he was naturalised as a Citizen of the U.K. and Colonies.

On the 29.8.81 the applicant returned to Cyprus and never visited England again during the material time. His contention is that he came here for holidays and stayed for a long time. On 11.5.82 the applicant went to Greece for a short visit and he returned to Cyprus on the 28.5.82 when, as he alleged, he formed the intention of settling in Cyprus. 5 10

On 28.6.82 the applicant applied to respondent 1 for exemption of import duty for the motor car he brought with him on 28.5.82 when he returned from Greece. The application was made on the basis of an Order of the Council of Ministers (P.I. 188/82) under s.11(2) of the Customs and Excise Duties Laws 1978-1981 and in particular sub-heading 19 of item 01 of the 4th Schedule to the said laws. Pending decision on the matter and as the said car was extensively damaged by reason of an accident the applicant by letter dated 14.10.82 asked permission to pay the appropriate duty on the said car and be allowed to purchase another car tax free. No reply was given to applicant's said letter. 15 20

By letter dated 16.4.83 respondent 1 rejected the applicant's application for the importation of a duty free car on the grounds that the applicant did not fulfil the main prerequisite i.e. permanent residence abroad for at least ten years and that P.I. 188/82 enacted on 11.6.82 was not applicable to the applicant's case as it does not have retrospective effect and that the stipulations of P.I. 151/81 which was in force at the time of the applicant's arrival either on 29.8.81 or 28.5.82 regarding the required duration of stay abroad were the same as those of P.I. 188/82 and, therefore, they do not cover the case of the applicant. 25 30 35

Hence the present recourse. It should be noted that Order 188/82 repealed and replaced Order 151/81. A continuous period of at least ten years permanent settlement abroad is a necessary prerequisite both under Order 188 and Order 151 for the exemption of import duty. 40

But the scope of Order 188 is wider than that of Order 151, because whilst the former applies "provided the importation takes place within a reasonable time before or after their arrival, to the discretion of the Director", the latter (Order 151) applies "provided such motor vehicles were in their possession for a period of not less than one year".

It should also be noted that in any event Order 151 is not applicable in the present case as the applicant's application concerned a new motor vehicle and not one in applicant's possession for a period of not less than one year.

*Held, dismissing the recourse:*

(1) The years spent by a Cypriot as a student in a foreign country do not satisfy the requirement of "permanent residence abroad" (*Rossides v. The Republic* (1984) 3 C.L.R. 1482 and *Matsas v. The Republic* (1985) 3 C.L.R. 54 followed).

(2) The applicant's permanent residence in England began on the 26.5.1982 when he received the notice of termination of his articles. In this respect in the absence of evidence to the contrary, the applicant's allegation that upon receipt of the notice and before the expiration of the time given in the notice (31.7.82) he took up employment is accepted.

From the fact that the applicant came to Cyprus on the 29.8.81 and till June 82, when he submitted his application, he never visited England again and from the following facts, namely that before his return in August 81 he sold his house in England and that in one of his letter to respondent 1 he stated that "By January 82 I felt that I had enough of U.K. so I left my practice to my partner" it may be inferred that he ceased to be permanently settled in England and that in any event the continuity of his permanent settlement there was interrupted as from August 81 to 28.5.82.

It follows that the requirement of a "continuous period of 10 years permanent settlement abroad" is not satisfied in this case.

(3) Even if it is assumed that such requirement was satisfied, the applicant was not entitled under Order 151 to the benefit he applied for, because his application was for the importation of a new car.

*Recourse dismissed.* 5

*Observations:*

Though the issue is left open, it is doubtful whether Order 188 has a retrospective effect.

**Cases referred to:**

*Rossides v. The Republic* (1984) 3 C.L.R. 1482; 10

*Matsas v. The Republic* (1985) 3 C.L.R. 54;

*Wahl v. A.G.* [1932] All E.R. Rep. 922.

**Recourse.**

Recourse against the refusal of the respondents to authorise the importation, by applicant, of a car duty free. 15

*Chr. Clerides*, for the applicant.

*M. Photiou*, for the respondents.

*Cur. adv. vult.*

SAVVIDES J. read the following judgment. The applicant, by the present recourse, challenges the refusal of the respondents to authorise the importation of a car duty free under sub-heading 19 of item 0.1 of the 4th Schedule to the Customs and Excise Laws 1978-1981 (Law 18/78 to 1/81). It is the contention of the applicant that he was entitled to the importation of a duty free car as he had been permanently residing abroad for a continuous period of more than ten years. 20 25

The applicant, who was the holder of a Cyprus passport, left Cyprus for the U.K. on the 15th September, 1967 after he had obtained a visa from the British authorities to enter the U.K. as a temporary visitor. In the summer of the following year he returned to Cyprus and he was allowed to re-enter the U.K. on a visa as a student, subject to the 30

restrictions contained therein. Whilst in England he followed accounting courses and entered into a term of articles of clerkship in the field of accountancy as from October, 1969. His articles were terminated by a notice dated the 26th  
5 May, 1972 with effect as from the 31st July, 1972, on the ground that he failed to pass the Intermediate Examinations of the Institute of Chartered Accountants (see Appendix 3 to the opposition). Upon receipt of such notice he discontinued his Articles and having had already obtained  
10 a work permit from the appropriate Authorities he took employment with a firm as a costing clerk in June, 1972. After he had completed five years in the U.K. he applied for naturalization as a citizen of the U.K. and Colonies and having satisfied the authorities that he was entitled to  
15 acquire such citizenship, he was registered as a citizen of the U.K. and Colonies on the 29th December, 1972.

The applicant continued employed by various firms, list of which appears in an application submitted by him to the Ministry of Finance on the 20th February, 1984 for authorisation to prepare accounts for income tax purposes (copy of which is annexed to the written address of counsel for the respondents).  
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On or about January, 1979, he set up in England a business of his own as an accountant and at the same time  
25 he was dealing with motor-vehicles.

On the 29th August, 1981, the applicant returned to Cyprus and never visited England again during the material time to the present case. It is his contention that in August, 1981 he came to Cyprus for holidays and stayed here for  
30 a long time. On the 11th May, 1982, he went to Crece for a short visit and he returned to Cyprus on the 28th May, 1982 when, as alleged by him, he formed the intention of settling in Cyprus. When he came to Cyprus on the 28th May, 1982, he brought with him a motor vehicle.  
35 Upon his arrival he applied to the Director of Customs and Excise for a temporary importation permit for his motor vehicle, which was granted to him till the 29th July, 1982 and was subsequently renewed till the 27th May, 1983.

On the 28th June, 1982, he applied to the Director of  
40 Customs and Excise for exemption from duty for his motor

car on the basis of an order of the Council of Ministers under section 11(2) of the Customs and Excise Laws 1978-1981 published in the official Gazette of the Republic, under Notification 188 of 1982 and in particular, sub-heading 19 of item 01. Pending the decision on the matter, the applicant, on the 14th October 1982, addressed the following letter to the Director of Customs and Excise:

“Dear Sir,

BMW Reg. NO. HYP 426 W  
Form C 104 NO. B 64548.

On the 28th of May, 1982 I imported the above referenced vehicle. Having been a permanent resident in U.K. since September, 1967 on the 28th of June 1982, I applied for exemption from duties on the vehicle with a view of taking up permanent residence in Cyprus.

On the 11th of August, 1982, while awaiting the process of my application I was involved in a road accident (for which the police have all the facts) which resulted in extensive damage on the vehicle. You may find enclosed the estimate by Char. Pilakoutas & Sons Ltd. amounting to £3905.250 mils.

I hereby request that I may be permitted to pay the appropriate duties on the vehicle, taking into consideration the damage, and be allowed to purchase a new vehicle tax free.

Yours faithfully,

(Sgd) Michael Mavronichis”.

No reply was given to such letter but as a result of a meeting between the applicant and respondent 1, applicant on the 18th March, 1983 addressed a letter to respondent 1 giving to him information concerning the period of his stay in England and also particulars as to what he was doing during the said period. Attached to such letter he submitted copy of the termination of his articles.

On the 19th March, 1983, applicant addressed to the

Director of Customs and Excise, another letter, giving more detailed particulars of the period of his stay in the U.K. advancing at the same time his arguments in support of his application.

- 5 By letter dated the 16th April, 1983, the Director of the Department of Customs and Excise, rejected the application of the applicant for the importation of a duty free car. This letter (copy of which is attached to the opposition as Exhibit A), reads as follows:

10 "Dear Sir,

I refer to your letters dated the 18th January and 19th March, 1983, by which you request authority for the duty-free importation for a car, under sub-heading 19 of item 01 of the Fourth Schedule to the Law No. 15 18/78 and would inform you that, after very careful examination of the circumstances of your case I have reached the following conclusions:-

(a) The period of your continued residence abroad seems to commence after a certain period of studies 20 which was terminated by a notice served on you with effect from 31st July, 1972, in accordance with the terms of the contract of your Articles of Clerkship. Taking into consideration that date and/or the date of your registration as a citizen of the U.K. and that you 25 had returned to Cyprus with intent to resume permanent residence on 29.8.1981 it results that you do not fulfil the main prerequisite for permanent residence abroad for at least ten years as stipulated in the P.I. No. 188/1982. But even if we accept your allegation 30 that your intention to reside permanently in Cyprus was formed on 28.5.1982 and not on 29.5.1981 the total period is again computed to be less than ten years.

(b) Nevertheless, the P.I. No. 188/1982 now in 35 force was enacted on the 11th June, 1982, and since its provisions are not applicable with retrospective effect, your case is not covered by it. On the other hand the stipulation of the P.I. No. 151/1981 which was in force at the crucial time of your arrival either on

the 29.8.1981 or 28.5.1982 regarding the required duration of stay abroad for the intending resident were the same as those of P.I. No. 188/82 and subsequently it does not appear to apply in your case either.

In view of the above considerations, I regret to inform you that your request cannot be acceded to. 5

Yours faithfully,

(Sgd) .....

Director

Department of Customs & Excise". 10

As a result, the applicant filed the present recourse praying for the following relief:

- A. A declaration that the decision or act of the Director of the Department of Customs and Excise, set out in his letter to the applicant dated the 16th April 1983, is null and void and of no effect whatsoever. 15
- B. A declaration that the refusal of respondents (1) and/or (2) to accede to applicant's request for authority to import a duty free car as embodied in his letters dated 28.6.1982, 14th October, 1982, 18th January, 1983, and 19th March, 1983, is null and void and of no effect whatsoever. 20

The grounds of law in support of the application are as set out therein, the following:

1. The decision was taken following insufficient inquiry into the true facts of the case. 25
2. The decision was taken under a misconception of the law and/or wrong interpretation of the law, more particularly sub-heading 19 of item 01 of the Fourth Schedule to the Law. 30
3. The decision was taken on the basis of a wrong ascertainment of the facts and in particular applicant's permanent residence in U.K. and the date of his return to Cyprus with the intention to resume permanent residence. 35



4. The decision is contrary to Articles 28(1), (2) and 23 of the Constitution safeguarding equality of treatment and the right to own and possess property.

5 Counsel for applicant in his elaborate written address dealt with the legal grounds advanced in support of his prayer for relief and expounded as follows:

10 (a) Order 188/82 published in the official Gazette of the Republic of 11.6.1982 which repealed and replaced the previous Order 151/81 published in the official Gazette of 10.7.1981, should be construed as having retrospective effect, bearing in mind the proviso under para. 19, sub-heading 01 whereby the Minister of Finance is empowered to grant relief from duty to Cypriots repatriated before the 15 1st January, 1982, who do not satisfy the minimum permanent settlement abroad of 10 years. Counsel submitted that in the light of such proviso the intention of the executive to give retrospective effect to the order in case of Cypriots repatriated between the 1st January, 1982 and the 11th June, 1982, should be inferred.

20 (b) He drew the distinction between the legal concept of domicile as expounded by Dicey in contrast with residence and laid stress to the dictum of Lord Warrington in *Wahl v. A.G.* [1932] All E.R. Rep. 922 at p. 924, where it was held that:-

25 "Residence or even permanent residence does not of itself import domicile for a man may have a residence in more countries than one."

30 His submission was that residence may be of different types, i.e. temporary such as in the case of tourists or of a business man, or ordinary, habitual, usual which will be in essence indefinite or in other words permanent. He summed up his argument by submitting that in law the concept of ordinary residence has been assimilated to that of permanent residence and that on the basis of such principles a person who is de facto resident in a country for 35 10 years, cannot be said to be temporarily resident in that country but he will be considered as having his ordinary, habitual and permanent residence in it even if he be domiciled in another country and it cannot be said that in

order to establish permanent residence an intention to stay in the country permanently must exist.

Counsel further commented on the case of *Matsa v. Republic* (1984) 3 C.L.R. 54, cited by counsel for the respondents and submitted that in the light of the principles expounded in Dicey and adopted in a number of English decided cases, as well as in a recent decision of the European Court, it is wrong to equate "permanent settlement" with "domicile".

(c) The applicant has discharged the burden of proving that he has been a resident abroad for more than 10 years. Counsel laid stress on the fact that in 1972 the applicant obtained the British nationality for the acquisition of which a previous five years residence in the United Kingdom was necessary. Furthermore, he submitted that applicant's residence abroad was interrupted on 28.5.1982, when he came to reside in Cyprus permanently and disposed of his property in England and that the fact that on 28.5.82, the customs accepted his application for the importation of his car for temporary purposes estops them from alleging that the applicant intended to assume permanent residence on 29.8.1981 and not on 28.5.82.

Counsel for respondents by his written address submitted that the decision of the Director was based on two alternative grounds:

(a) That the applicant did not satisfy the prerequisite of ten years permanent residence abroad and

(b) in any case, Order 188/82 which was published in the official Gazette on 11.6.82 did not apply to applicant's case as he was repatriated before the 11th June, 1982, that is, prior to the publication of such order which cannot have retrospective effect.

Counsel for respondent went at some length in his address in expounding on the conflicting opinions given on various occasions by the office of the Attorney-General as to the retrospectivity of the law and in this respect he attached to his written address the written opinion of a Senior Counsel of the Republic, according to which

the order could not have retrospective effect and the written opinion of the ex Attorney-General himself, taking the contrary view as well as his own written opinion to the Director of Customs and Excise.

5 I find all this material irrelevant for the purposes of the present case as the court is bound to decide on the opinion which it will form on the material before it and not on the opinions of the Attorney-General or any member of his staff, which, as already mentioned, are conflicting in the present case.

10 Counsel further submitted that on the basis of two recent decisions of the Supreme Court (*Matsas v. The Republic* (supra) and *Rossides v. The Republic* (1984) 3 C.L.R. 1482) the residence abroad of the applicant whilst there for studies, could not be considered as amounting to permanent settlement abroad satisfying the provisions of the order.

15 Whilst considering the judgment in this case. I found that in the light of the provisions of the two orders whereby relief is granted to repatriates and particularly the fact that Order 188/82 has repealed the provision of Order 151/81 which applied to motor vehicles in the possession of the repatriate for a period of one year and extended the relief to new cars, it was necessary to reopen the case and ask

25 counsel to elaborate further on the following:

- (1) Assuming that the applicant had completed 10 years permanent residence abroad (26th May, 1972—28th May, 1982) could order under Notification 188 published on 11.6.1982, be applicable to him?
- 30 (2) Assuming that the order previously in force under Notification 151/81 is relied upon, could the applicant by virtue of such order apply for permit to buy a new car duty free?

35 In elaborating on these points counsel for applicant drew the attention of the Court to Appendix A to the written address of the respondents, the opinion of the ex Attorney-General of the Republic, in which he deals with the point of retrospectivity of the relevant regulation and concludes

that the relevant regulation can be applied to persons who had already returned to Cyprus, prior to the coming into operation of the relevant order, that is, prior to June and not before the 1st of January, 1982. He submitted that such opinion is in line with the principles laid down in Odgers on Construction of Deeds and Statutes and that in the present case the relief under Order 188/82 is applicable to the case, bearing also in mind the fact that when applicant's application came to be considered the order which was in force was Order 188/82.

Counsel for respondents on the other hand stated that bearing in mind the opinion of the ex Attorney-General of the Republic and after consultation with the present Attorney-General, he would not insist on his submission that Order 188/82 cannot have retrospective effect. In concluding on this point, he stated the following:

"To summarise my position, if the Court finds that the applicant had completed 10 years' permanent residence abroad by the 28th May, 1982, when, according to his submission he decided to reside permanently in Cyprus, I submit that the applicant is entitled to have the benefit of a duty-free car and I agree in this respect with counsel for the applicant, but still we have, in view of the *Matsas* case to decide whether the applicant was permanently resident.

So concerning the application of the new rules to the applicant, it is our submission that the only matter which the Court has to decide is the ten years residence abroad and we withdraw any other contention as to whether the new regulations are applicable or not.

In respect of the letter which contains the sub judice decision dated 16th April, 1983, Appendix 8 to my opposition we say that the valid reason is only the first one and not the second one. In respect of the second one, we agree that it is not a valid reason for refusing the application."

Before proceeding to deal with the substance of the case, I shall make a brief reference to the relevant orders related

to the importation of duty-free cars by repatriated Cypriots after a permanent settlement abroad for over 10 years.

The order of the Council of Ministers which was published in the official Gazette of the Republic of 10.7.1981, under  
5 Notification 151, provides under item 01 sub-heading 19 that motor vehicles of Tariff Headings 87.02.19 imported by Cypriots who after a permanent settlement abroad (κατόπιν μόνιμου εγκαταστάσεως εις το εξωτερικόν) for a  
10 continuous period of at least 10 years return to take up permanent residence in Cyprus, are exempted from import duty, provided that -

(a) such motor vehicles were in their possession for a period of not less than one year, and

15 (b) only one motor vehicle for each family could be allowed duty-free.

The above order was repealed and substituted by a new order of the Council of Ministers published in the official Gazette of the Republic, Supplement No. III of the 11th  
20 June, 1982, under Notification No. 188. Its scope was enlarged by obliterating the first condition of the previous order and extending its application to new cases and, also, by the addition of the words "provided the importation takes place within a reasonable period of time before or after their arrival, to the discretion of the Director." The  
25 following proviso was also included in the new order.

"It is further provided that the Minister of Finance is empowered to grant relief from import duty to Cypriots repatriated before the 1st January, 1982 who do not satisfy the above conditions."

30 The issues which pose for consideration before me in this case are:

(1) Whether the applicant at the material time when he returned to take permanent residence in Cyprus had satisfied the condition of a continuous permanent settlement  
35 abroad for a period of at least 10 years.

(2) Whether the order published under Notification No. 188/82 can have retrospective effect so as to extend to

Cypriots repatriated before the 11th June, 1982 the date of the publication of the order.

It is common ground in this case, as it emanates from the addresses in clarification after the case was re-opened that Order under Notification 151 of the 10th July, 1981 is not applicable in the present case, as the applicant applied for the importation of a new motor vehicle and not one which had been in his possession for a period of not less than one year, as provided by order under Notification No. 151.

The question as to whether the years spent by a Cypriot as a student abroad satisfy the requirement of permanent settlement abroad has been considered in the case of *Rossides v. The Republic* (1984) 3 C.L.R. 1482 in which Malachos J. in upholding the decision of the respondent Director of Customs to reject applicant's request for entitlement to a duty free car, said (at pp. 1485, 1486):-

"The applicant during the greater part of the period he was abroad was undoubtedly a student, a fact which is admitted. And residence in a certain country, as a student, for educational purposes, however long, cannot be termed as anything more than 'temporary residence'. It cannot qualify as 'permanent residence' or, as referred to in England, 'ordinary residence', as it lacks the necessary element of permanency".

The above opinion was adopted by A. Loizou, J. in the case of *Matsas v. The Republic* (1985) 3 C.L.R. 54 in which a recourse challenging the refusal by the respondent of an application for the duty free importation of a motor car on the ground of ten years permanent residence abroad was dismissed. At page 59, we read:

"To my mind the words 'permanent settlement abroad' are common words and there is no context requiring that they should be given other than their natural meaning in accordance with their accepted usage. It appears from the expression used in the cyclostyled form in the application that they have been understood and interpreted by the respondents as having the notion of immigration of a permanent re-

sidence abroad for the purpose of working and that they exclude the travel abroad for the purpose of studies."

5 I adopt the opinions expressed by both my learned brothers in the above two cases that the years spent by a Cypriot in a foreign country as a student do not satisfy the requirement of "permanent settlement abroad" which is a prerequisite for relief from import duty on motor vehicles.

10 With the above in mind I come now to consider whether the applicant satisfies the requirement of ten years continuous permanent settlement abroad.

15 It is an undisputed fact that the applicant went to the United Kingdom as a visitor in September, 1967 after a "visitor's visa" was given to him by the British Authorities. He returned to Cyprus in 1968 and in the summer of the same year he left Cyprus for studies in the U.K. on a "student's visa" the validity of which was renewed from time to time. Whilst in the U.K. he followed accounting courses for the purpose of becoming a Chartered Accountant for which in addition to the academic studies, he had to become an Articled Clerk with an established firm of Accountants. Having failed to pass his Intermediate Examinations in Accounting, his Articles of clerkship were terminated by notice dated the 26th May, 1972 with effect as from the 31st July, 1972.

20 For the purposes of this case and in the absence of any evidence to the contrary, I am prepared to accept the statements contained in applicant's letter to the respondent that upon receipt of the notice of termination of his articles and before the expiration of the time given in the notice, he gave up his Articles of clerkship and took up employment as an accountant with a firm in England. As from such moment the residence of the applicant as a student came to an end and his stay in England continued for the purpose of employment. I treat such date as being the 26th of May, 1972, when the notice of termination of his articles was received by him.

35 As already mentioned, the applicant came to Cyprus in August, 1981, and till the 28th June, 1982, when he sub-

mitted his application for a duty free motor car he never visited England. What may be inferred from this fact as well as the facts that before his arrival in Cyprus in August, 1981 he had sold his house in England and that as stated in his letter to the Director of Customs and Excise of the 18th January, 1982 "By January, 1982 I felt that I had enough of U.K. so I left my practice to my partner", is that he ceased to be permanently settled in England and that in any event the continuity of his permanent settlement in the U.K. was interrupted as from August, 1981 till the 28th May, 1982. The prerequisites under item 01 sub-heading 19 for entitlement to a duty-free motor car are -

(a) "permanent settlement abroad",

(b) "continuous period of at least 10 years".

In the light of all the material before me and my findings as above, I have come to the conclusion that the period since the 26th May, 1972, as from which the applicant may be considered as having permanently settled in England, till August 1981, does not satisfy the requirement under the order of "a continuous period of at least ten years". It was therefore reasonably open for the Director of the Department of Customs and Excise to reject applicant's application on this ground. But even if I assume that the applicant by August, 1981, satisfied the requirement of 10 years continuous permanent settlement abroad, he could not, as very rightly conceded by his counsel, have been entitled under the provisions of the Order of the 10th July, 1981 (Notification No. 151/81) which was in force at the material time to relief from import duty on a new car as such order applied only to cases of motor cars in the possession of their owners for a period of not less than one year before the date of their importation in Cyprus.

As a result, the recourse fails on this ground.

Having reached such conclusion, I find it unnecessary to deal with the question whether the order of the 11th June, 1982 under Notification 188/82 can be treated as having a retrospective effect or not. Notwithstanding the fact that I have my doubts as to the soundness of the argument in favour of the construction that retrospective effect should



be given to the said order, I leave this matter open to be decided in a proper case. Irrespective of the retrospectivity or not of Order 188/82 under the proviso of such order, the applicant being a Cypriot repatriated before the 1st of  
5 January of 1982, could have applied for the grant of relief from import duty to the Minister of Finance who, under such proviso, is empowered to grant relief of such persons though they do not satisfy the conditions set out in the order.

10 In the result, this recourse is hereby dismissed, but in the circumstances I make no order for costs.

*Recourse dismissed.*

*No order as to costs.*