

1986 October 24

[MALACHTOS. DEMETRIADES. PIKIS, JJ.]

POLY E. EFTHYMIADOU,

Appellant-Plaintiff,

v.

GEORGHIOS ZOUDROS AND OTHERS,

Respondents-Defendants.

(Civil Appeal No. 6820)

5 *Rent Control—Rent Control Law 36/75—Section 4(1)—Jurisdiction of the Court established thereby—Encompasses disputes arising from the enforcement of the law, including matters incidental to its main theme, such as recovery of rent and loss from damage caused to rent controlled premises.*

10 *Rent Control—The Rent Control Law 23/83—Section 32(1)—Transference of cases—Ministerial power conferred on the Registrar of the Court—The District Court is not empowered to order the transfer of a case to the Rent Control Court.*

15 *Courts of Justice—District Courts—Do not have jurisdiction beyond that conferred on them by law—Neither the Courts of Justice Law 14/60 nor any other law confers jurisdiction on a District Court to transfer a case wrongly raised before it to another Court or Tribunal—If it lacks jurisdiction in respect of a case before it, its powers end with the dismissal of such a case.*

20 *Constitutional Law—District Courts—They are “inferior courts” in the sense of Article 152 of the Constitution.*

On the 4.1.83 the appellant brought an action before the District Court of Nicosia against the respondent, claiming—(a) recovery of arrears of rent and charges due

in connection with the occupation of premises, and (b) compensation for damages caused to the property.

The premises were first let on 14.1.74 and were on that account subject to the provisions of the Rent Control Law 36/75. The District Court dismissed the action for lack of jurisdiction and directed the transfer of the case to the Rent Control Court established under the Rent Control Law 23/83, taking the view that s. 32(1) of this law gave power to make such order.

As a result the appellant filed the present appeal. Notwithstanding that counsel for the appellant acknowledged during the appeal that the respondents were statutory tenants of the premises in question, he argued that the liability to pay rent or make repairs were matters outside the jurisdiction conferred upon the Court under s. 4(1) of Law 36/75 and, consequently, were amenable to the jurisdiction—or, at least, the concurrent jurisdiction—of the District Court.

Held, dismissing the appeal and setting aside the order directing the transfer of the case to the Rent Control Court: (1) Both on a literal construction of s. 4(1) of Law 36/75 and a purposive construction of the said law as a whole, the conclusion is that the Rent Control Court, established under the said section, was vested with jurisdiction to adjudicate upon any dispute arising from the enforcement of the said law, including matters incidental to its main theme, such as recovery of rent and loss from damage to rent controlled premises. The District Court lacked competence to take cognizance of the dispute in the present case.

(2) The power for the transference of cases under s. 32(1) of Law 23/83 is of a purely ministerial character, empowering the Registrar of a Court before which cases of the category mentioned therein are pending to transfer them before the Rent Control Court. Hence the above section does not confer the jurisdiction assumed by the District Court to order the transfer of the case as aforesaid.

A District Court is an "inferior Court" in the sense of Article 152 of the Constitution. It cannot assume or exer-

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cise jurisdiction beyond that conferred on District Courts by law. Nowhere does Law 14/60, i.e. the statute defining the substantive jurisdiction of a District Court, or any other law, vest jurisdiction in a District Court to order the transfer of any action wrongly raised before it to another Court or tribunal. The power of a District Court is to decide whether it has jurisdiction or not and, if not, to dismiss the case.

Appeal dismissed. Order for transfer set aside. No order as to costs.

Cases referred to:

Meitz and Others v. Pelengaris (1977) 1 C.L.R. 226:

Petsas v. Pavlides (1980) 1 C.L.R. 158.

15 **Appeal.**

Appeal by plaintiff against the judgment of the District Court of Nicosia (N. Nicolaou, D.J.) dated the 20th October, 1984 (Action No. 23/83) whereby it was ordered that her action for recovery of arrears of rent and charges due in connection with the occupation of the premises that she vacated in May or June, 1982, be transferred to the Rent Control Court.

A. Ladas, for the appellant.

S. & A. Spyridakis, for the respondent.

Cur. adv. vult.

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

PIKIS J.: Contrary to the submissions made before the District Court, on appeal it was acknowledged the respondents were statutory tenants of the premises of the appellant that she vacated in May or June, 1982. The appellant instituted the present proceedings on 4.1.83 before the District Court of Nicosia, claiming—

(a) recovery of arrears of rent and charges due in connection with the occupation of the premises; and

(b) compensation for damage caused to the property.

The premises were first let on 14.1.74 and were on that account subject to the provisions of the Rent Control Law—36/75. Notwithstanding the abandonment of the stand taken by the appellant before the District Court that the premises were not subject to the provisions of the afore-said law, counsel who argued the case on her behalf still maintained that the dispute was amenable to the jurisdiction of the District Court of Nicosia. Counsel for the respondents, on the other hand, submitted that the dispute was wholly outside the substantive jurisdiction of the District Court.

After the conclusion of the hearing and before judgment the trial Judge invited argument on the competence of the District Court to take cognizance of the subject matter of the action. He ruled, despite the consensus of opinion of counsel to the contrary, that the District Court lacked competence to try the case and consequently dismissed the action. But he did not stop there. He went one step further and directed the transfer of the case to the Rent Control Court established under the provisions of Law 23/83, taking the view that s. 32(1) of this law gave him power to make the order in question. Mr. Ladas argued on appeal the District Court had jurisdiction to try the case, submitting that the competence of the Court established under Law 36/75 was confined to recovery of possession and matters immediately connected with the statutory tenancy or directly incidental thereto. Liability to pay rent or make repairs provided for in the tenancy agreement constituted matters outside the range of jurisdiction conferred upon the Court by s. 4(1) of Law 36/75 that were in consequence amenable to the jurisdiction of the District Court. In the contention of the appellant the District Court had, at the least, concurrent jurisdiction to take cognizance of the case.

On a literal construction of the provisions of s. 4(1)—Law 36/75, the Rent Control Court, established under this provision of the law, was vested with jurisdiction to adjudicate upon any dispute arising from (αναφουμένης) the enforcement of the law including matters incidental to

the main theme of the law, such as recovery of rent and loss from damage caused to rent controlled premises. To the same conclusion we arrive on a purposive interpretation of the law, too. On a consideration of the law as a whole, and the object it aimed to achieve, mainly to cope with the scarcity of accommodation in the aftermath of the Turkish invasion, it is fairly clear to us the legislature intended to refer every matter relevant to the terms of occupation of controlled premises and liability arising thereunder to the Court set up under the provisions of s. 4(1). That rent was directly regulated by the law is manifest from the provisions of s. 7(1) assigning the determination of rent payable for controlled premises to the Court established under s. 4(1). The law superseded contractual provisions with regard to rent relegating their importance to mere relevance to what may constitute "reasonable rent" for the occupation of controlled premises, as the Supreme Court decided in *Elli G. Meitz and Others v. Andreas Pelengaris*¹.

The provisions of s. 4(1) of Law 36/75 were authoritatively interpreted by the Supreme Court in the case of *Petsas v. Pavlides*², relied upon by the trial Court in ascertaining and determining the jurisdiction vested in the Court thereunder. In our judgment, the District Court lacked competence to take cognizance of the dispute and the ruling of the Court to that effect must be sustained. Affirming that part of the decision of the trial Court, does not dispose of this appeal for we were invited by the respondents to discharge the order of the District Court, directing the transfer of the case to the Rent Control Court established under Law 23/83. Quite independently of submissions made by the respondents in this regard, we would be dutybound to discharge this order if we came to the conclusion that the Court patently exceeded its jurisdiction in so directing. Determination of the question involves consideration and examination of—

(a) the power, if any, vested in a District Court by s. 32

¹ (1977) 1 C.L.R. 226.

² (1980) 1 C.L.R. 158.

(1) of Law 23/83 to order the transfer of the case,
and

- (b) the competence of a District Court to make orders for the transfer of cases pending before it to another Court.

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Section 32(1) does not in terms confer jurisdiction on a District Court to direct the transfer of any case pending before it to the Rent Control Court. The power for the transference of cases conferred thereby is of a purely ministerial character (not of a judicial character), empowering the Registrar of a Court before which cases of the category mentioned therein are pending to transfer them before the Rent Control Court. Hence s. 32(1) does not confer upon the District Court the jurisdiction claimed by the trial Judge in this case. Does any other law confer jurisdiction on a District Court to order the transfer of a case before it to another Court is the next question we must answer.

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The District Court is an "inferior Court" in the sense of article 152 of the Constitution and possesses such jurisdiction as given it by law. It cannot assume or exercise jurisdiction beyond that conferred on District Courts by law. The statute defining the substantive jurisdiction of a District Court, that is its competence, as well as its territorial jurisdiction, is the Courts of Justice Law—14/60. Nowhere does Law 14/60, or any other law, vest jurisdiction in the District Court to order the transfer of any action wrongly raised before it to another Court or Tribunal seemingly having jurisdiction to take cognizance of the dispute. The power of the District Court in this connection is limited to deciding whether it has jurisdiction to take cognizance of the case. If not it is dutybound to dismiss it as misinitiated before it. And there end its powers. Competence to ensure that "inferior Courts" or Tribunals and bodies exercising quasi-judicial powers operate within the bounds of their jurisdiction, vests in the Supreme Court and is exercised by means of prerogative writs, in accordance with the provisions of para. 4 of Article 155 of the Constitution. In exercise of this com-

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petence the Supreme Court may, in an appropriate case, direct a body subject to its control to place a case before a Tribunal vested with competence to adjudicate upon a judicial matter. The present proceedings, however, are not proceedings by way of judicial review but appellate proceedings in which we are primarily concerned with the propriety of the orders made.

As the proceedings before the District Court were abortive and in consequence a nullity, the competence of the District Court was confined to dismissal of the proceedings. The order made beyond that was in excess of its jurisdiction and must, for that reason, be set aside. It is unnecessary to pronounce on whether the dispute, the subject matter of the present abortive proceedings, is amenable to the jurisdiction of the Rent Control Court or the Court set up under s. 4(1) of Law 36/75 (repealed by Law 23/83) in virtue of the provisions of s. 10(2)(e) of the Interpretation Law—Cap. 1. It is for the parties to reflect on their rights and means for their ventilation before a competent Court.

In the result the appeal is dismissed and the order for transfer is hereby set aside. Respecting costs it is only fair to make no order in that regard given the stand of the parties before the District Court and, the novelty of the issue.

Order accordingly.