

1984 November 28

[TRIANTAFYLIDIS, P., HADJIANASTASSIOU, A. LOIZOU,  
MALACHTOS, SAVVIDES, LORIS, JJ.]

IN THE MATTER OF ARTICLE 146  
OF THE CONSTITUTION

KRATINOS CHARALAMBIDES AND OTHERS,

*Applicants.*

v.

1. THE REPUBLIC OF CYPRUS, THROUGH  
THE COUNCIL OF MINISTERS,
2. THE MUNICIPALITY OF POLIS CHRYSOCHOUS,
3. THE MUNICIPALITY OF LARNACA,

*Respondents.*

(Cases Nos. 436/79, 437/79, 310/80, 338/80,  
355/80, 362/80, 364/80, 381/80).

---

5 *Constitutional Law —Right to property —Constitution, Article 23.3—Restrictions or limitations “imposed by law”—Zoning schemes imposed by notices published under s. 14(1) of The Streets and Buildings Regulation Law, Cap. 96—The restriction, which such schemes entail, have been imposed by law.*

10 *Constitutional Law—Equality —Constitution, Article 28—Restrictions of right of property entailed by zoning schemes based on reasonable classifications—Such schemes not inconsistent with Article 28.*

15 *Administrative Law—Discretion of administration —Judicial control—Principles applicable—Zoning scheme published under s. 14(1) of the Streets and Buildings Regulation Law, Cap. 96—This Court will not substitute its views in the place of those of the administration.*

The present recourses are directed against the validity of zoning schemes imposed by respondents 2 and 3.

*Held, dismissing the recourses:* (1) The sub judice zoning schemes do not entail deprivation of property, but only restrictions or limitations of the right of property, which have been "imposed by law" in the sense of Article 23.3 of the Constitution, that is by virtue of section 14(1) of Cap. 96. Any consequential administrative implementation of such restrictions by means of the sub judice Notices published under s. 14(1) does not render the restrictions incompatible with Article 23.3. 5

(2) The fact that the respondent Municipalities enlisted in view of the nature and magnitude of the schemes, the assistance of the Town Planning Department, does not lead to the conclusion that the schemes in question were imposed by the Government on the respondent Municipalities in a manner incompatible with s. 14(1). 10 15

(3) The restrictions in question are not unreasonable and in any event this Court cannot substitute its own views in the place of those of the respondents.

(4) The restrictions in question are based on reasonable classifications and, therefore, they do not offend against the principle of equality. 20

*Recourses dismissed.  
No order as to costs.*

**Cases referred to:**

*Manglis v. The Republic* (1984) 3 C.L.R. 351; 25

*Sofroniou v. Municipality of Nicosia* (1976) 3 C.L.R. 124

**Recourses.**

Recourses against the notices published under the Streets and Buildings Regulation Law, Cap. 96 whereby certain restrictions were imposed in relation to the areas described in the notices as "tourist zones". 30

*A. Pandelides*, for applicants in Cases Nos. 436/79 and 437/79.

A. S. Angelides, for applicants in Cases Nos. 310/80, 338/80, 364/80 and 381/80.

A. Poetis, for applicant in Case No. 355/80.

A. Panayiotou, for applicant in Case No. 362/80.

5 M. Florentzos, Senior Counsel of the Republic, for respondent 1.

K. Chrysostomides, for respondent 2.

G. Nicolaidis, for respondent 3.

*Cur. adv. vult.*

10 TRIANTAFYLIDIS P. read the following judgment of the Court. This final judgment in all these cases, which have been heard together in view of their nature, must be read together with our interim judgment which was given in these proceedings on the 22nd February 1984\* and the  
15 contents of which we need not repeat.

In accordance with the principles which were expounded in the majority judgment in *Manglis v. The Republic*, (1984) 3 C.L.R. 351, we are of the view that the sub judice zoning schemes do not entail deprivation of property, but  
20 only restrictions or limitations of the right to property. We should, however, point out, in this respect, that our brother Judge Hadjianastassiou J., who has disagreed to a certain extent with the majority judgment in the *Manglis* case, continues to adhere to the views which he expressed in his  
25 dissenting judgment in that case.

The restrictions or limitations on the right of property which are complained of in these cases have, in our opinion, been "imposed by law" in the sense of Article 23.3 of the Constitution, because they have been imposed by  
30 virtue of section 14(1) of the Streets and Buildings Regulation Law, Cap. 96, and any consequential administrative implementation of such restrictions, by means of the sub

---

\* Reported in (1984) 3 C.L.R. 1516.

judice in the present proceedings Notices, which were published under the said section 14(1), does not render the restrictions in question incompatible with Article 23.3 of the Constitution. The position in these cases is analogous to that of the administrative implementation of restrictions which were imposed by virtue of section 12 of Cap. 96 as street-widening schemes in *Sofroniou v. The Municipality of Nicosia*, (1976) 3 C.L.R. 124. 5

The reasoning for the sub judice Notices emerges both from their texts and from relevant administrative records which were produced before the Court. The zoning schemes in question were duly considered and adopted by the respondent Municipalities and were approved by the Council of Ministers, as envisaged by section 14 of Cap. 96; and, in this respect, we reject as entirely unsubstantiated the allegation of applicant in case 362/80 that the respondent Municipality of Larnaca was motivated by vindictiveness towards the owners of the affected properties. It is true that, in view of the nature and magnitude of such schemes, the respondent Municipalities enlisted the technical assistance of the Town Planning Department, but we cannot accept as correct the contention of the applicants that because of the involvement of the Town Planning Department we should reach the conclusion that the said schemes were, in fact, imposed by the Government on the respondent Municipalities in a manner incompatible with the proper application of section 14(1) of Cap. 96. 10  
15  
20  
25

The restrictions entailed by the sub judice Notices are not, in our opinion, unreasonable, as alleged by the applicants; and, in any event, as an administrative Court we cannot substitute our own views in the place of those of the respondent Municipalities and the Council of Ministers as regards the technical aspects of the zoning schemes in question. 30

Nor is it correct that the building zones created by the sub judice Notices result in the treatment of the properties affected by them in a discriminatory manner, contrary to Article 28 of the Constitution. In our opinion the restrictions entailed by such Notices appear to us to be based 35

on reasonable classifications which do not offend against the principle of equality which is safeguarded by Article 28 of the Constitution.

5 For all the foregoing reasons all these recourses are dismissed; but we shall not make any orders as to their costs.

*Recourses dismissed.  
No order as to costs.*