

1987 March 10

[A. LOIZOU, MALACHTOS, LORIS, PIKIS, KOURRIS, JJ.]

THE PUBLIC SERVICE COMMISSION (NO. 1),

Appellant - Respondent,

v.

MARINA POTOUEDES AND OTHERS,

Respondents - Applicants.

(Revisional Jurisdiction Appeal No. 680).

Revisional Jurisdiction Appeal — Lack of service on interested parties of some of the relevant recourses — Whether in the absence of a ground of appeal the Court can entertain the issue — Question answered in the affirmative.

The objection raised in this appeal is that, in the absence of a relevant ground of appeal, this Court cannot entertain the issue of lack of service on the interested parties of some of the recourses, which were heard together with the rest and resulted in the judgment appealed from. 5

Held (1) The service on interested parties of a recourse is a matter of substance and the omission to serve is tantamount to a denial of the right to be heard. 10

(2) This Court is duty bound to examine on its own motion the issue of lack of service.

Objection overruled.

Objection.

Objection that in the absense of a relevant ground of appeal the Court cannot entertain the issue of lack of service on certain interested parties in some of the recourses which had been heard together with the rest and resulted in the judgment under appeal. 15

A. Vladimirov, for the appellant.

A. Angelides, A. Ladas and N. Papaefstathiou, for the respondents. 20

L. Papaphilippou, for the interested parties.

A. LOIZOU J. gave the following ruling of the Court. At the outset of the hearing of this appeal our attention was drawn to the

lack of service on certain of the interested parties in some of the recourses which had been heard together with the rest and resulted in the judgment under appeal.

5 This question, however, was not raised as a ground of appeal and an objection was made to the effect that this Court could not in the circumstances consider it at this stage.

10 The question of service to litigants and interested parties whose position is or may possibly be affected from a judicial process is a matter of substance and the omission to serve is tantamount to a denial of the right to be heard, a situation which renders such omission material and carrying with it the nullity of the process.

15 We have considered the position, and we have come to the conclusion that irrespective of whether the nonservice of a recourse of an interested party is raised as a legal ground in an appeal or not, this Court is duty bound to examine on its own motion such issue that comes to its attention because the examination of any other ground of appeal would be useless as in case of confirmation of the first instance judgment under appeal, this Court would have found itself in the situation whereby it
20 would have confirmed a judgment which was reached without the opportunity having been given to a litigant to be heard.

The objection therefore that this Court could not entertain this issue once it was not one of the grounds of appeal is overruled.

Objection overruled.