



SUPPLEMENT No. 3
TO
THE CYPRUS GAZETTE No. 3956 OF 5TH JULY, 1956.
SUBSIDIARY LEGISLATION.

No. 622.

**THE IMMOVABLE PROPERTY (TENURE, REGISTRATION
AND VALUATION) LAW.**

CAP. 231 AND LAWS 8 OF 1953 AND 4 OF 1954.

RULES OF COURT MADE UNDER SECTION 80.

JOHN HARDING,
Governor.

In exercise of the powers vested in me by section 80 of the Immovable Property (Tenure, Registration and Valuation) Law, I, the Governor, with the advice and assistance of the Chief Justice, do hereby make the following Rules :—

Cap. 231,
8 of 1953
4 of 1954

PRELIMINARY.

1. These Rules may be cited as the Immovable Property (Tenure, Registration and Valuation) Rules, 1956. Citation.

2.—(1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say :— Inter-pretation.

“ Civil Procedure Rules ” means the Civil Procedure Rules or any rules amending or substituted for the same ; S.L. Vol II, page 124.

“ the Court ” means the District Court of the district in which the immovable property is situate or any member thereof having jurisdiction ; Gazettes : Supplement No. 3 :

“ Director ” means the Director of Lands and Surveys, and includes any officer duly appointed by him for all or any of the purposes of these Rules either generally or for any particular purpose ; 20.5.1954
21.6.1956

“ the Law ” means the Immovable Property (Tenure, Registration and Valuation) Law ; Cap. 231
8 of 1953
4 of 1954

“ office copy ” means a sealed copy or translation of any document lodged, filed or kept in, or issued out of a court registry, certified to be a true copy or translation by the Registrar of that registry ;

“ Registrar ” means the Registrar of the Court and includes a Senior Registrar or an Assistant Registrar attached to such Court.

(2) A Form referred to by number means the Form so numbered in the Appendix to these Rules.

(3) The Interpretation Law shall apply to the interpretation of these Rules as it applies to the interpretation of a law. Cap. 1,

PART I.—PROCEEDINGS IN THE DISTRICT COURT.

Proceedings
by action.

3. An application to the Court under sub-section (1) of section 45 and sub-section (3) of section 48 of the Law, for a declaration that the objector is the person entitled to registration, shall be by way of action, and the Civil Procedure Rules shall apply :

Provided that the Director shall not be made a party to the proceedings, but the objector shall cause an office copy of the writ of summons to be served on the Director for his information.

Ex parte
applications.

4.—(1) The following applications to the Court may be made *ex parte*—

- (a) under paragraph (a) of the second proviso to sub-section (1) of section 72 of the Law, for directions as to the mode of service on a person under disability who has no guardian ; and
- (b) under the proviso to section 73 of the Law, for directions as to the payment out of Court of compensation or any other sum paid into Court.

(2) Applications made *ex parte* shall be in Form 1, and shall be supported by affidavit or affidavits of the facts relied upon.

(3) The Court dealing with an application made *ex parte* may direct that notice thereof shall be given to such persons as the Court may think fit.

Proceedings
by summons.

5.—(1) Except as hereinbefore in these Rules or by Law otherwise expressed, all appeals and applications to the Court under the Law shall be made by summons in Form 2, with such variations as circumstances may require, and shall be supported by affidavit or affidavits of the facts relied upon, and filed with the Registrar together with a copy of the Director's order, notice or decision appealed against.

(2) All interested parties shall be joined as parties to the proceedings : Provided that, unless otherwise directed by the Court, the Director shall not be joined as a party except in proceedings under sections 40, 44, 58, 59, 68, 69 and 69A of the Law.

(3) Where the Director is not a party to the proceedings, the applicant shall, nevertheless, cause an office copy of the summons (Form 2) to be served on him.

Director's
reasons for
decision.

6.—(1) The Director shall, when so requested by a person aggrieved by any order, notice or decision of the Director made or given under the provisions of the Law, who signifies his intention to appeal against such order, notice or decision, furnish such person with a statement of his reasons therefor, which statement shall be filed with the Registrar together with the summons (Form 2).

(2) Where an office copy of the summons (Form 2) is served on the Director under the provisions of Rule 5, he shall, within fourteen days after the date of such service, file with the Registrar a statement of his reasons for the order, notice or decision appealed against, unless he shall have previously supplied such statement to the person aggrieved under the provisions of paragraph (1) of this rule : Provided that the Director may, within the aforesaid period of fourteen days, apply to the Court *ex parte* for an extension of time, and shall forthwith give notice of any extension allowed by the Court to all parties to the proceedings.

(3) On filing his statement of reasons with the Registrar, the Director shall leave, for each party to the proceedings, a copy thereof for service plus a duplicate of such copy for the affidavit of service.

Grounds of
appeal, etc.

7. Every summons (Form 2) originating an appeal or application under these rules shall state the grounds of such appeal or application. No grounds other than those so stated shall (except with the leave of the Court hearing the appeal or application and on such terms as the Court may think just) be allowed to be taken by the applicant at the hearing of the appeal or application.

8. The date specified in the summons (Form 2) for the hearing of the appeal or application shall be not less than twenty-one days after the day on which the summons is filed with the Registrar. Date of hearing

9. An office copy of the summons, the affidavit or affidavits filed in support thereof, and the Director's order, notice or decision appealed against shall be served on all persons affected thereby. Such service shall be effected at least twenty-one days before the day fixed for the hearing of the appeal or application. Service of summons.

10.—(1) If any person served with a summons to attend the hearing of an appeal or application intends to oppose such appeal or application, such person shall, not later than fourteen days after the service of such summons on him, file with the Registrar a notice of such intention in Form 3, and leave a copy thereof for the applicant at his address for service. Notice of opposition.

(2) Such notice shall refer to the specific section of the Law or the specific Rules of Court upon which the opposition is founded. Any facts relied upon in opposition which are not apparent on the face of the proceedings shall be set out in one or more affidavits accompanying the notice of opposition, and copies of such affidavits shall be left for the applicant together with such notice.

(3) If there is a conflict between the applicant and any person giving notice of opposition in regard to the facts, the applicant or such person must, at the hearing of the summons, be prepared to prove the facts he relies upon in so far as the burden of proof lies upon him.

11.—(1) Where any of the parties to a summons fail to attend, whether upon the return of the summons, or at any time fixed for hearing or further hearing of the matter, the Court may proceed *ex parte*, if, considering the nature of the case, the Court thinks it expedient so to do. Failure to attend.

(2) Where the Court has proceeded *ex parte*, such proceeding shall not in any manner be reconsidered by the Court, unless the Court shall be satisfied that the party failing to attend was not guilty of wilful delay or negligence; and in such case the costs occasioned by his non-attendance shall be in the discretion of the Court, which may fix the same at the time, and direct them to be paid by the party before he shall be permitted to have such proceeding reconsidered, or make such other order as to such costs as the Court thinks just. Reconsideration of proceedings.

12. Where any of the parties to a summons fail to attend, whether upon the return of the summons, or at any time fixed for hearing or further hearing of the matter, and the Court does not think it expedient to proceed *ex parte*, the Court may order such an amount of costs, if any, as it shall think reasonable to be paid to the party attending by the absent party. Costs thrown away by non-attendance.

PART II.—APPEALS.

13. Where an appeal lies under the Law from any order of the District Court such appeal shall be brought within fourteen days after the making of such order, and the provisions of Order 35 of the Civil Procedure Rules, relating to appeals, shall apply. Appeals.

PART III.—GENERAL.

14. The costs of every appeal or application under these rules and of the proceedings connected therewith shall be in the discretion of the Court determining the appeal or application. Costs.

15.—(1) Subject to any special order of the Court, in respect of proceedings under these Rules, parties as between themselves, and advocates as between themselves and their clients shall be entitled to charge and shall be allowed the fees set forth in Appendix B to the Civil Procedure Rules relating to applications by summons, Advocates' fees.

(2) In determining the scale of costs applicable in each case the criterion shall be the amount or value of the property actually in dispute between the parties as disclosed in the proceedings.

Service on
Director.

16. Any notice or other document required or authorized to be served on the Director for the purpose of these Rules shall be deemed to have been duly served if served on the principal officer of the Land Registry Office for the district in which the immovable property concerned is situate.

Procedure
not
expressly
provided.

17. Matters of practice and procedure not expressly provided for in these Rules shall be governed by the Civil Procedure Rules in force for the time being, in so far as they may be applicable.

Transitional
provisions.

18. These Rules shall apply to any proceeding which is pending at the date on which these Rules come into operation subject to such directions as the Court may think fit to give.

APPENDIX.

FORM 1.

APPLICATION MADE *EX PARTE*.

(Rule 4).

In the District Court of

No. of 19 .

In the matter of the Immovable Property (Tenure, Registration and Valuation) Law, Cap. 231, section .

Ex parte : A.B., of , Applicant.

The above applicant applies for (a)

The application is based on (b)

The facts relied upon are set forth in the accompanying affidavit by A.B. dated .

This application is made by A.B. in person (or by E.F., advocate for A.B.). Address for service :

(Signed)

Advocate for Applicant.

Filed on the day of

, 19 .

Fixed for hearing on the day of

, 19 ,

at o'clock in the noon.

Registrar.

(a) Set out order or direction applied for.

(b) Set out specific section of Law or specific Rule of Court.

FORM 2.

APPEAL/APPLICATION BY SUMMONS.

(Rule 5).

In the District Court of

No. of 19 .

In the matter of the Immovable Property (Tenure, Registration and Valuation) Law, Cap. 231, section .

Between :

A.B.

Applicant,

and

C.D.

Respondent.

Let all parties concerned attend the Court at
of , 19 , at the hour of

on the day
in the noon,

on the hearing of an appeal/application whereby the above-named applicant appeals/applies (a)

The Director's order/notice/decision dated _____ is attached to this summons.

The appeal/application is based on (b)

The grounds of appeal/application and the reasons therefor are (c)

The facts relied upon are set out in the accompanying affidavit of A.B. of _____ dated the day of _____, 19 _____.

This summons was taken out by the applicant in person (or by E.F., advocate for the applicant). Address for service :

(Signed)

Advocate for Applicant.

Filed on the _____ day of _____, 19 _____, at
Fixed for hearing on the _____ day of _____, 19 _____, at
the hour of _____ in the _____ noon.

To (d)

Registrar.

- (a) Set out order, notice or decision of the Director appealed against, or order or direction applied for.
- (b) Set out specific section of Law or specific Rule of Court.
- (c) Each ground and the reasons therefor should be stated separately and fully (cf. rule 7).
- (d) State name and address of person to be served with the summons ; and on form filed in Court give names and addresses of every such person.

FORM 3.

NOTICE OF INTENTION TO OPPOSE SUMMONS.

(Rule 10).

(Title as in Form 2).

Notice of intention to oppose the application of A.B. of _____ dated _____ and fixed for hearing on _____.

Notice is hereby given that C.D. of _____ intends to oppose the above application.

The opposition is based on (a)

* The facts relied upon in opposition are as follows : (b)

or

* (The facts relied upon in opposition are set forth in the affidavit of C.D. of _____ dated _____.)

This notice is given by C.D. personally (or by G.H., advocate for C.D.). Address for service :

(Signed)

Advocate for Respondent.

Filed on the _____ day of _____, 19 _____, at the hour of _____ in the _____ noon.

Registrar.

- (a) Set out specific section of Law or specific Rule of Court.
- (b) If the notice is not required by the Rules to be supported by affidavit, the facts relied upon should be stated in the notice.
- (*) Strike out if not required.

Given under the hand and official seal of the Governor and the hand of the Chief Justice, at Nicosia, this 28th day of June, 1956.

(M.P. 1080/51.)

ERIC HALLINAN,
Chief Justice.