

CYPRUS

CIVIL PROCEDURE

CHAPTER 6 OF THE LAWS

1959 EDITION

PRINTED BY

C. F. ROWORTH LIMITED, 54, GRAFTON WAY, LONDON, W.1.

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1959

CHAPTER 6.

CIVIL PROCEDURE.

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RELATING TO THE POWERS OF THE COURTS IN CIVIL ACTIONS
AND TO THE EXECUTION OF JUDGMENTS IN SUCH ACTIONS.

PART I.

1949 Cap. 7.
24 of 54.
4 of 55.

Preliminary.

1. This Law may be cited as the Civil Procedure Law. Short title.
2. In this Law,
 "the Court" means the Court before which the Interpreta-
tion.

action in which any application or order is made, or any writ is issued, has been instituted, or the Supreme Court, or any judge thereof respectively ;

“ judgment creditor ” means a person in whose favour a judgment ordering the payment of money is made ;

“ judgment debt ” means money ordered by a judgment to be paid ;

“ judgment debtor ” means a person against whom a judgment ordering the payment of money is made.

PART II.

POWERS OF THE COURT.

Service of
writ out of
jurisdiction.

3. The Court may order that a writ of summons may be served out of Cyprus whenever it appears to the Court that the cause of action has arisen on any breach or alleged breach in Cyprus of any contract wherever made, or in respect of any property subject to the Laws of Cyprus, or that the cause of action has arisen in Cyprus, and that, in any of the cases aforesaid, the action is one which cannot be tried elsewhere than in Cyprus or can be more conveniently tried in Cyprus than elsewhere.

Interim
order for
sequestra-
tion,
etc.

4. (1) The Court may at any time during the pendency of any action therein make in the action an order for the sequestration, preservation, custody, sale, detention, or inspection of any property, being the subject of the action, or an order for preventing any loss, damage, or prejudice which but for the making of the order might be occasioned to any person or property, pending a final judgment on some question affecting such person or property or pending the execution of the judgment.

(2) The order for sequestration referred to means an order appointing some person or persons to enter upon any immovable property, specified in the order, which is in the occupation of the person against whom the order is made, and to collect, take, and get into his or their hands the rents and profits thereof, and also the goods and movable property of such person, and to keep them for a time specified in the order or until the further order of the Court.

(3) The order confers upon the person or persons thereby appointed full power to do everything which by the order is

directed to be done, and all acts and things subsidiary thereto; and, from the time when notice of the order is given to the person against whom it is made, it deprives him of every such power, subject only to his right to occupy the immovable property sequestrated and to carry on his business thereon and to use the movable property which may be thereon for the purposes of such occupation and the carrying on of his business.

5. (1) Any Court in which an action for debt or damages is pending, may, at any time after the institution of the action, by its order direct that the defendant be restrained from parting with so much of the immovable property standing registered in his name or of which he has by law a right to be registered as the owner, as in the opinion of the Court shall be sufficient to satisfy the plaintiff's claim together with his costs of action.

Interim
order
restraining
dealing with
land.

(2) No such order shall be made unless it appears to the Court that the plaintiff has a good cause of action, and that by the sale or transfer of the property to any third person it is probable that the plaintiff may be hindered in obtaining satisfaction of the judgment of the Court if given in his favour.

(3) Every order made under this section shall specify so far as practicable the situation, boundaries, extent, and nature of the property affected by it.

(4) Where an order has been made under this section, the person on whose application it is made may deposit at the District Lands Office of the district within which any property affected by the order is situated an office copy of the order, together with a memorandum in writing addressed to the District Lands Officer, requesting that the property may not be transferred into the name of any person other than the person against whom the order is made.

(5) The order and memorandum shall be open to inspection in the office where they are deposited, and any subsequent transfer of the property maintains in effect shall be null and void if the person into whose name the property shall be in damages only against the person by whom the property was granted or assigned to him, whether by way of sale, gift, mortgage, or otherwise. And the District Lands Officer shall make an entry in the book kept for the

purpose showing that the documents have been duly deposited, and shall communicate in writing the number of the entry to the person depositing the document.

Power to
arrest
defendant.
2 of 4/55.

6. (1) Where the plaintiff in an action in any Court proves at any time before final judgment by evidence on oath to the satisfaction of such Court, that he has good cause of action against the defendant to an amount exceeding fifty pounds, and that there is probable cause for believing that the defendant is about to quit Cyprus unless he be apprehended, and that the absence of the defendant from Cyprus will materially prejudice the plaintiff in the prosecution of his action, such Court may order such defendant to be arrested and imprisoned for a period not exceeding six months, unless and until he has sooner given the security directed by the Court, not exceeding the amount claimed in the action, that he will not go out of Cyprus without the leave of the Court.

(2) The expenses incurred for the subsistence of the defendant while under arrest shall be paid by the plaintiff in advance, at such rate and in such manner as is directed by Prison Regulations in respect of judgment debtors committed under Part VIII of this Law.

(3) The Court may at any time, on reasonable cause shown, discharge or vary the order, or grant such other relief as may be just.

(4) The security to be given by the defendant may be a deposit in Court of the amount mentioned in the order, or a bond to the plaintiff by the defendant and two sufficient sureties (or, with the leave of the Court either one surety or more than two), or, with the plaintiff's consent, any other form of security. The plaintiff may, within four days after receiving particulars of the names and addresses of the proposed sureties, give notice that he objects thereto, stating in the notice the particulars of his objections. In such case the sufficiency of the security shall be determined by the Court, which shall have power to award costs to either party. The plaintiff shall, on application in Court for that purpose, and unless he gives security within four days after giving notice of objection, the security shall be deemed sufficient.

(5) Unless otherwise ordered, the costs of and incidental to an order of arrest shall be costs in the cause.

Interim
orders made
on
insufficient
grounds.
3 of 4/55.

7. If it appears to the Court that any order made by such Court under the last preceding sections was applied for

on insufficient grounds, or if the plaintiff's action fails, or judgment is given against him, by default or otherwise, and it appears to the Court that there was no probable ground for his bringing the action, the Court may, if it thinks fit, on the application of the defendant, order the plaintiff to pay to the defendant such amount as appears to the Court to be a reasonable compensation to the defendant for the expense and injury occasioned to him by the execution of the order.

Payment of compensation under this section shall be a bar to any action for damages in respect of anything done in pursuance of the order ; and any such action, if begun, shall be stayed by the Court in such manner and on such terms as the Court thinks just.

8. (1) On the application of any party to an action the Court may, where it appears necessary for the purposes of justice, and subject to such terms, if any, as the Court may direct, make any order for the examination upon oath before any person, and at any place within or without the jurisdiction of the Court, of any witness or person, and may give directions as to any matters connected with the examination as may appear reasonable and just, and may empower any party to the action to give the deposition in evidence therein.

Commission
to take
evidence.

(2) Any person so directed to take any examination may administer the prescribed oath and may make a special report to the Court touching the examination and the conduct or absence of any witness or person thereon ; and the Court may direct such proceedings and make such order as may seem just.

(3) On the application of any party to an action the Court may, if it thinks fit, issue a request to a Court in a foreign country to examine a witness resident within the jurisdiction of such Court and may empower any party to the action to give in evidence therein the deposition of such witness taken before the Court in the foreign country or before a person to whom the examination may be deputed by such Court.

2 of 37/34.

9. (1) Any order which the Court has power to make may, upon proof of urgency or other peculiar circumstances, be made on the application of any party to the action without notice to the other party.

Orders
without
notice.

(2) Before making any such order without notice the

Court shall require the person applying for it to enter into a recognizance, with or without a surety or sureties as the Court thinks fit, as security for his being answerable in damages to the person against whom the order is sought.

(3) No such order made without notice shall remain in force for a longer period than is necessary for service of notice of it on all persons affected by it and enabling them to appear before the Court and object to it ; and every such order shall at the end of that period cease to be in force, unless the Court, upon hearing the parties or any of them, shall otherwise direct ; and every such order shall be dealt with in the action as the Court thinks just.

(4) Nothing in this section shall be construed to affect or apply to the powers of the Court to issue writs of execution.

PART III.

EXECUTION GENERALLY.

Execution
against
joint
property.

10. Where a judgment is against any persons jointly, execution may issue either against any property belonging to them jointly or against any property belonging to any of them separately.

Judgment
debts to
carry
interest at
four per
centum.
2 of 39/44.

11. Every judgment debt shall carry interest at the rate of four per centum per annum from the date on which the judgment is pronounced until the same shall be satisfied and such interest may be levied under a writ of execution on such judgment :

Provided that nothing in this section contained shall apply to any judgment pronounced before the 16th day of November, 1944, and every such judgment shall carry such interest as may be specified therein and in accordance with the terms thereof :

Provided also that where any judgment relates to a debt carrying interest, no interest shall be paid under the provisions of this section except on the principal debt or any balance thereof remaining due and unpaid.

Costs of
execution.

12. The party enforcing a judgment shall be entitled to recover his costs of execution unless the Court shall otherwise order ; and the Sheriff or other officer executing any writ shall be entitled to retain in his hands the expenses incurred by him or any agent on his behalf in executing it.

13. All money payable under a judgment and raised by execution or otherwise, under the process of the Court, shall be paid into Court, unless the Court shall otherwise direct.

Disposal of proceeds of execution.

Payment into Court shall be affected by payment into the Department of the Accountant-General, or into any bank, or to some person or persons, as may be directed by Rules of Court, the moneys so paid in being placed to the credit of and subject to the order of the Court.

14. (1) Any judgment or order of a Court directing payment of money may, subject to the provisions of this Law, be carried into execution by all or any of the following means :

Methods of execution.

- (a) by seizure and sale of movable property ;
- (b) by sale of or making the judgment a charge on immovable property ;
- (c) by sequestration of immovable property ;
- (d) by attachment of property under Part VII of this Law ; or
- (e) by imprisonment of the debtor under Part VIII of this Law.

(2) Any judgment or order of a Court for the recovery or delivery of possession of any immovable property may be enforced by a writ of possession directing the Sheriff or other officer to put the judgment creditor in possession of that property.

2 of 24/54.

(3) Any judgment or order of a Court for the recovery or delivery of any movable property may be enforced by a writ of delivery directing the Sheriff or other officer to take such movable property and deliver it to the judgment creditor.

2 of 24/54.

(4) Rules of Court, made by the Governor with the advice and assistance of the Chief Justice, may prescribe the form of a writ of possession and of a writ of delivery and the fees to be paid in connection therewith and regulate the procedure for the issue and execution of such writs.

2 of 24/54.

15. No judgment or order for the payment of money shall be executed except under the provisions of this Law.

Orders for payment of money to be executed only under this Law.

PART IV.

EXECUTION BY SALE OF MOVABLES.

What goods
of the
debtor are
not liable to
execution.
2 of 10/39.

16. The following goods shall not be liable to be taken in execution :—

- (a) the necessary wearing apparel of the debtor and his family, the necessary box or wardrobe for preserving the same and the necessary beds and bedding of the debtor and his family ;
- (b) the necessary baking and cooking utensils of the debtor and his family ;
- (c) the books, tools, implements, vessels and receptacles absolutely necessary for the profession, art industry, trade or occupation of the debtor, not exceeding in the whole the value of fifty pounds ;
- (d) one pair of neat cattle, or two camels, or one mule and one ass, or two asses, at the option of the debtor, and where the debtor is a farmer alternatively to the foregoing provision two horses or one horse or mule and any one of the aforesaid animals at the option of such debtor ;
- (e) every article which is indispensable to the use of the exempted animals ;
- (f) the fodder required to feed the exempted animals for three months ;
- (g) provisions for three months for the debtor and his family ;
- (h) where the debtor is a farmer, seed grains sufficient for sowing in respect of one year the extent of land normally cultivated by such debtor.

Mode of
executing
writ.

17. Subject to the provisions of the last preceding section, every writ of seizure and sale of movable property shall be executed after sunrise and before sunset, and the officer executing it shall, if practicable, seize and take so much of the movable property of the judgment debtor as he may consider necessary for the satisfaction of the judgment debt.

Sale not to
take place
for three
days.

18. The property taken in execution (except money or securities for money), shall be sold, but not until the expiration of three days at least next following the day on which it was taken, unless it is of a perishable nature or upon the request in writing of the party whose property it is ; and

until sale it shall be deposited in some fit place or may remain in the custody of some fit person.

19. Every sale of movable property in execution of a judgment shall, unless the Court otherwise orders, be made by public auction, subject to such directions, if any, as the Court may make on the application of any parties concerned; but the Court may direct the sale to be made in such other manner as it may deem advisable.

Sale to be generally by auction.

20. (1) Any securities for money taken in execution shall be held by the officer executing the writ as a security for the amount directed to be raised and shall be dealt with in such manner as the Court on the application of any party shall direct.

Securities, how to be dealt with.

(2) The money secured by any of such securities may, when the time of payment thereof has arrived, be recovered in an action instituted by the judgment creditor in the name of the judgment debtor or in the name of any person in whose name the debtor might have instituted an action for its recovery.

21. Where any movable property seized in execution under any judgment or order is claimed by any person other than the judgment debtor, the claimant or the person to whom the writ of execution is addressed may apply to a Court to determine the right to the property. The Court, after notice to all necessary parties to appear before it, shall either summarily determine the rights of the parties or make such order for the trial and determination of their rights as it shall think expedient, and for the custody in the meanwhile of the property in dispute; and in either case the Court shall direct by whom the costs incurred by reason of the claim shall be paid.

Proceedings where claim by third party.

Where some third person claims to be entitled to any property so seized by way of security for a debt, the Court may order a sale of the whole or part thereof upon such terms as to payment of the whole or part of the secured debt or otherwise as it thinks fit, and may direct the proceeds of sale to be applied in such manner and upon such terms as may seem just.

PART V.

EXECUTION AGAINST IMMOVABLES.

Execution by Sale.

Writ for
sale of land
not to issue
unless
debtor
has no
movables.

22. No writ of execution by sale of immovable property shall issue, except by the consent of the judgment debtor, unless a writ of sale of the movable property of the debtor, issued out of the Court and addressed to the Sheriff of the district within which the Court is situate, has been returned into the Court unsatisfied, or unless it appears that the debtor has no movable property actually in his possession.

What land is
liable to
execution.

23. The immovable property of a judgment debtor which may be sold in execution shall include only the property standing registered in his name in the books of the District Lands Office :

Provided that where the property consists in whole or in part of a house or houses there shall be left to or provided for the debtor such house accommodation as shall in the opinion of the Court be absolutely necessary for him and his family :

Provided also that when the debtor is a farmer there shall be exempted from the sale so much land as shall in the opinion of the Court be absolutely necessary for the support of himself and his family. This last proviso shall not be applicable in respect of debts incurred before the 2nd of May, 1919, or in respect of debts due to any Co-operative Credit Society, duly registered as such under the provisions of the Co-operative Credit Societies Law, 1914, or any amendment thereof by any member or past member thereof.

2 of 9/29.

Issue of writ.

24. No writ of sale of immovable property shall be issued except on an application to the Court, notice of the application having been first given to the debtor ; and every such writ shall be signed by the Judge, or one of the Judges, directing its issue.

Duration of
writ.

25. Subject to the provisions of the next section, where a writ of sale of immovable property has remained unexecuted for one year from the date of its issue by reason only of the non-payment of the expenses to be incurred in carrying out the sale, the District Lands Officer may endorse on the writ that it has not been executed by reason of

the non-payment of the expenses ; and the writ shall then be returned to the Court by which it was issued and shall cease to have any legal force and effect.

The Court may at any time before the expiration of one year from the date of the issuing of the writ, order that it shall remain in force for such further period as the Court thinks fit.

26. If a judgment debtor whose immovable property is sought to be sold claims that it will be to his interest or to the interest of his creditors that any part of it should be sold before any other part, he shall bring the claim to the notice of the Court before the auction is concluded ; and if the Court thinks that any part of the property should be sold before any other part, it may so order accordingly.

Order for
sale of part
of land first.

27. A writ of sale of immovable property, directing the sale of the debtor's immovable property generally, without other or further directions, shall be sufficient authority to the Sheriff and to the officers of the District Lands Office to sell so much of the immovable property registered in the name of the debtor as may be deemed sufficient to raise the amount due under the judgment, with all expenses of execution.

Writs
directing
sale of land
generally.

28. Where the property is subject to a mortgage—

Land subject
to mortgage.

- (a) the judgment creditor may at any time after the mortgage debt has become payable, pay to the mortgagee on behalf of the judgment debtor all money secured by the mortgage, and may add the money so paid to the amount of his judgment debt ; and the Court, upon being satisfied that the money secured by the mortgage has been paid, may direct a sale of the property ;
- (b) if upon tender by the judgment creditor to the mortgagee of the money secured by the mortgage, the mortgagee refuses to accept it, the Court may, on the application of the judgment creditor, direct the property to be sold upon such terms as to the payment into Court by the judgment creditor, or as to his otherwise securing the payment of the mortgage debt as the Court thinks fit ;
- (c) the judgment creditor may, instead of paying or tendering to the mortgagee the money secured by the mortgage, give notice to the mortgagee

of his intention to apply to the Court for a writ of sale ; and upon such application, and upon the judgment creditor furnishing security to the satisfaction of the Court for the expenses to be incurred in and in connection with the sale, a writ may be issued directing the property to be sold, subject to a reserved bidding to be fixed by the Court, for securing the money due and to become due under the mortgage ; and if there is no bidding of as high a value as the amount fixed by the reserved bidding, the property shall not be sold ;

(d) the money realized by any sale under paragraph (c) shall, so far as it extends, be applied ; first, in payment of the money due under the mortgage ; secondly, in payment of the expenses of the sale ; thirdly, in payment of the judgment debt ; and the balance, if any, shall belong to the judgment debtor.

(e) if the money so realized is not sufficient for the payment in full of the money due under the mortgage and the expenses of the sale, the judgment creditor shall be answerable for the deficiency, but may, where the Court thinks fit so to order, add the amount of the deficiency to the amount of his judgment debt as costs of execution.

Land registered in deceased debtor's name need not be registered in name of heirs.

29. Where a writ has been issued for the sale of immovable property in satisfaction of a judgment debt owing by a deceased person, and the property stands registered in the books of the District Lands Office, in the name of the deceased, the Lands Department shall sell the property in satisfaction of the debt without first requiring its registration to be effected in the name of the heirs.

Sale under subsequent writ of land ordered to be sold by prior writ.

30. Where a writ has been issued for the sale of immovable property, the Court may, on the application of any other judgment creditor, issue a writ for the sale of so much of the property as has not been sold under the first writ ; and may, upon the like application, order that the balance, if any, after payment of what is due under the first writ, shall be applied in satisfaction of the debt of the creditor by whom application is made.

Directions.

31. The Sheriff or any person executing a writ of sale of

immovable property may apply to the Court for directions for disposing of any question arising or likely to arise in the course of the sale, and the Court may thereupon give such directions as it thinks advisable.

32. Any person who claims to be interested in any immovable property for the sale of which a writ has been issued, may apply to the Court to stay the sale, and the Court may, after hearing all necessary parties, make such order thereon as seems just.

Application
by third
party for
stay of sale.

33. Every sale of immovable property in satisfaction of a judgment shall be made by public auction at a time and place of which public notice has been given.

Sale to be by
auction.

34. (1) The notice shall be posted at the town or village within which the property is situate ; at the town or village at which the sale is to be held ; at the court-house of the Court out of which the writ of sale is issued ; and at such other place or places as may be directed by the Court or by Rules of Sale made under this Law.

Notice of
sale.

(2) The notice shall specify the name and place of business of the person appointed to conduct the sale and of the person, if any, to whom biddings may be made pending the time appointed for the sale.

(3) The notice shall be a notice of at least fifteen days, but need not in any case exceed ninety days ; and shall be issued for such time prior to the sale and shall be given in such manner as shall be provided by any Rules of Sale made under this Law or, in default of any such rules, in such manner as the Court may direct.

35. After the publication of the notice and until the time appointed for the sale, biddings in writing may be made to any person named in that behalf in the notice of sale, provided that they are made in conformity with the Rules of Sale or, in default thereof, that they are signed by the person bidding in the presence of some person named to receive written biddings.

Written
bids.

36. At the time and place appointed for the sale the person appointed to conduct it, or his substitute, shall receive all biddings then made orally to him, and shall close the sale in conformity with the provisions of the Rules of Sale or, in default thereof, when he considers,

Close of sale.

from the time which has elapsed since the last previous bidding, that no further biddings are forthcoming.

Highest bidder to be declared.

37. After the close of the sale the person having the conduct of it shall declare the name of the highest bidder.

Liability of bidder.

38. (1) Every person who makes a bidding, whether in writing or orally, shall, unless or until a higher bidding is made, thereby render himself responsible for the amount bid by him and that he will complete the purchase and pay all fees necessary for duly transferring the property into his name in the books of the District Lands Office ; and if the highest bidder shall, on the demand of the person having the conduct of the sale, neglect or refuse to pay the money bid by him, or such portion thereof as may be prescribed by Rules of Sale, and also the above-mentioned fees, the biddings shall be reopened and the property shall again be put up for sale. And the highest bidder at the former sale shall be responsible for all losses, if any, occasioned by his neglect or refusal to pay the said sums.

(2) If the amount realised at the subsequent sale is not sufficient to satisfy the amount due under the judgment in execution of which the sale is made, the amount, if any, for which the highest bidder at the former sale rendered himself responsible shall be recoverable in an action instituted by the judgment creditor, or, by leave of the Court, by the judgment debtor. In the contrary case the amount shall be recoverable in an action instituted by the judgment debtor.

Penalty for failure to pay amount of bid.

39. When the person declared to be the highest bidder is not required by the person having the conduct of the sale immediately after the close of the sale to pay the whole of the money bid by him, then if he fails to complete the payment of the money bid by him within the time fixed by the conditions of sale, the judgment creditor may serve on him a notice in writing calling upon him to complete the payment within ten days after service of the notice ; and if he neglects or refuses without reasonable cause, proof whereof shall lie upon him, to complete the payment within the said ten days he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty pounds.

Court may fix reserve price.

40. The Court on issuing the writ may direct that the property shall not be sold unless the amount bid for it is equal to or exceeds a reserve price fixed by the Court.

Any such direction may be given by the Court on the application of the person whose property is ordered to be sold and on his securing, in such manner as the Court may approve of, the payment of any additional expenses which may be occasioned by the giving of the direction ; and if any such direction is given, the reserve price shall in all cases be specified in the writ of sale, and no bidding or offer for the property shall be accepted unless it is equal to or exceeds the reserve price: Provided that this section shall not apply to property legally mortgaged or hypothecated for the payment of a debt.

41. When the property is not sold owing to the amount bid not having been equal to the reserve price, if, after the expiration of six months from the conclusion of the biddings, the property still remains unsold and the creditor applies to the Court to order it to be again put up for sale, the Court shall, unless it is shown that the debt is satisfied, make the order accordingly, and the property shall then be sold for the best price that can be obtained.

Resale when
reserve not
reached.

42. The doors of any room in which the sale takes place may, in the discretion of the person appointed to conduct the sale, or his substitute, be closed so that any person present at the commencement of the sale may not leave until the person conducting the sale has closed the sale and called upon the highest bidder to pay the purchase money or so much thereof as may then be payable.

Sale with
closed doors.

43. If it is made to appear to any Court that there has been any omission or irregularity at the sale whereby any person has been actually damaged or prejudiced, the Court may set aside the sale and order a new sale upon such terms as it thinks just.

Irregularity
in sale.

44. (1) Where the highest amount bid is inadequate, then, if the debtor applies to the Court within seven days from the time when the bidding was made for a stay of proceedings, and proves to the satisfaction of the Court that the highest amount bid is inadequate as aforesaid, and if, when the application is made to the Court and when the Court is prepared to deal with it, it is possible to make an order on it without affecting the rights of or in any way prejudicing any person other than the debtor and his creditor, the Court may by its order direct that the proceedings under the writ be suspended or that the writ be

Sale may
be suspended
or writ set
aside if
highest bid
inadequate.

set aside, as far as regards the property for which the highest bid is inadequate, either unconditionally or subject to such terms as the Court may think fit to impose.

(2) The Court shall not make the order if it appears that the debtor or any person with his knowledge and on his behalf, or in furtherance of any common purpose formed by him and others to prejudice, hinder, or prevent the sale of immovable property, has in any manner acted so as to prejudice the sale of the property or hinder or prevent biddings being made for it.

(3) If, after the expiration of six months from the time when the Court orders the proceedings under the writ to be suspended or the writ to be set aside, the property comprised in the writ still remains unsold, and the creditor applies to the Court to order it to be again put up for sale, the Court shall, unless it is shown that the debt is satisfied, make the order accordingly, without charging any further Court fees ; and the property shall then be sold for the best price that can be obtained.

(4) This section and sections 45 to 50 inclusive shall not apply to any property legally mortgaged or hypothecated for the payment of a debt.

Meaning of
"inade-
quate."

45. A bid shall ordinarily be deemed to be inadequate within the meaning of this Law if it is less than one-third of the value of the property as shown in the immovable property tax registers. But the creditor may submit evidence to the Court that the value so shown exceeds the true actual value of the property, and the Court may, on leaving the evidence and any evidence submitted by the debtor in opposition, and after hearing the parties or such of them as attend the Court, determine what is the true value of the property ; and in that case the bid shall be deemed to be inadequate within the meaning of this Law, if it is less than one-third of the value determined by the Court.

Time for
application
to suspend
or set
aside.

46. Any debtor desiring to obtain an order of a Court suspending proceedings under or setting aside a writ for the sale of any of his immovable property, shall make application to the Court for that purpose within seven days from the date when the bidding has closed ; and no such application shall in any case be received after the expiration of seven days.

47. When the proceedings under a writ have been suspended or a writ has been set aside under the provisions of this Law, any property which was ordered to be sold may, on the application of any person interested therein at any time afterwards, be sold, if the Court thinks fit so to direct.

Resale after suspension or setting aside of writ.

48. The suspension of proceedings under a writ or the setting aside of a writ shall not postpone the claim of the creditor on whose application the writ was issued to the claim of any other creditor, but all rights as against the debtor and all other persons claiming through or against the debtor which on the issuing of the writ accrued to the creditor in respect of the property therein mentioned shall remain in full force until his debt is satisfied, with interest and costs.

Suspension or setting aside not to prejudice creditor.

49. When the Court suspends the proceedings under or sets aside a writ, or if the highest bid is less than the reserve price fixed by the Court, the creditor may, if he so requires and if the Court thinks fit, be put into possession of the property for any period not being more than three years, at a yearly rent fixed by the Court ;

When creditor may be put in possession.

Provided that if any person other than the creditor offers to rent the property and to enter into security for the payment of the rent, the creditor shall not be entitled to be put into possession at a smaller rent than that so offered.

50. Notwithstanding that a creditor has been put into possession under the last preceding section the property may at any time, by leave of the Court, be sold to any person who will give an adequate price for it.

Court may order sale although creditor in possession.

Except as hereinbefore provided the Court shall not necessarily direct the property to be sold, but shall direct it either to be sold or to continue in the possession of the creditor, as may in the opinion of the Court be most conducive to the interests of all parties concerned.

51. If for any reason any of the property is not sold on the day fixed for the sale, the Court may give such directions as it thinks right for the sale thereof and for advertisements and notices.

Directions on failure of sale.

52. No transfer of immovable property sold in execution shall be made at the District Lands Office until the expiration of fifteen days after the date when the biddings closed.

Transfer not to be registered until fifteen days after sale.

*Making Judgment a charge on Land.*Registration
of judgment.

53. A judgment creditor may, for the time and to the extent hereinafter specified, render any immovable property in which his judgment debtor is beneficially interested, and which is registered in the books of the District Lands Office in the debtor's name, a security for the payment of his judgment debt by registering his judgment at the District Lands Office.

How
effected.

54. The registration shall be effected by depositing at the District Lands Office of the district in which the property sought to be charged is situated, an office copy of the judgment, together with a memorandum, dated and signed by the judgment creditor or his agent appointed for that purpose, describing the property and claiming that the debtor's interest in it may remain answerable for the payment of the money due under the judgment.

The memorandum shall state the name, place of residence and occupation of the judgment debtor, the nature of the property, the town or village within the lands of which the property is situate, and a reference to the place in the registers where the registration of the property is to be found.

Duration of
registration.

55. Registration of a judgment shall ordinarily remain in force for two years only from the date when the judgment was first registered.

Extension of
period.

56. (1) The registration may, from time to time, be prolonged by an order of the Court for any further period or periods not exceeding one year at any one time.

(2) No order shall be made prolonging the registration unless—

- (a) the application for it is made at least one month before the expiration of the existing period for which it is registered ; and
- (b) the Court is able, after hearing and considering the application and all evidence adduced in support of it, to make its order before the expiration of the existing period ; and
- (c) notice of the application and of the time fixed for its hearing has been given to the District Lands Officer of the district within which the property is situate ; and

(d) the Court is satisfied that the judgment was not a collusive judgment, or obtained with a view to defeat other creditors, and also that a prolongation of the period of registration will not prejudicially affect the judgment debtor or any other judgment creditor or creditors.

(3) Notice of the order shall be given to the District Lands Office by or on behalf of the judgment creditor and at his expense, by leaving at the office where the judgment is registered a notice in writing of the making of the order, or an office copy thereof, not later than the day on which, but for the making of the order, the registration of the judgment would cease to have effect, and, where notice only is left, by further leaving an office copy of the order at the District Lands Office within fourteen days from the day last aforesaid ; and if the office copy or notice and office copy as aforesaid be not so left at the office, the creditor shall forfeit the benefit conferred on him by the order.

57. During the time that the registration remains in force, the interest of the debtor in the property shall be charged with the payment of the debt due under the judgment in priority to all debts or obligations of the debtor not specifically charged upon the property before the deposit of the memorandum ; and notwithstanding any transfer or mortgage made after the registration of the judgment, the property, or so much of it as shall be necessary to be sold to satisfy the judgment, shall, at any time while the registration remains in force, be ordered by the Court to be sold in execution of the judgment. The remedy of any person into whose name it may have been transferred, or to whom it may have been mortgaged, shall be in damages only against the person by whom the property was transferred or mortgaged to him.

Effect of registration.

58. Where a declaration for sale or for mortgage has been made, no memorandum deposited after the date of the declaration shall have any effect upon the property affected by the declaration until the expiration of twenty days from the date of the declaration.

Where there is a previous declaration for sale or mortgage.

59. Whenever any judgment that has been registered is satisfied while the registration remains in force it shall be the duty of the creditor to give notice in writing thereof at the office where the judgment is registered.

Notice to be given when judgment satisfied.

The creditor shall be answerable to his debtor, and to any

creditor of the debtor, for any damages they or either of them may incur by reason of a judgment remaining registered after it has been satisfied, unless he proves that the damage has been incurred in consequence of the judgment remaining registered after he has given notice at the District Lands Office of its satisfaction.

Entries to be made at District Lands Office.

60. The proper officer of the District Lands Office shall enter in a book to be kept for that purpose a note of the date of the registration at the District Lands Office of every judgment, and of the names, places of residence and ordinary occupations of all persons against whose immovable property or any part thereof, any judgment has been registered, and of the date of any order prolonging the registration, and of the period for which the registration is thereby prolonged.

The book shall also show the name of the village where the properties are situate.

The book, together with the office copies of judgments and memoranda deposited at the District Lands Office under this Law, shall be open to inspection.

Creditor who has registered his judgment may be postponed if he does not proceed with execution.

61. Where there are two or more judgments against the same debtor in favour of separate creditors, and two or more of the creditors give notice to the same District Lands Office of their judgments, the Court may direct that any creditor whose notice is prior in date to that of any other creditor shall be postponed to all or any creditors whose notices are subsequent in date to his and who may seek to execute their judgments, unless he proceeds to execute his judgment within a time to be named by the Court.

Application of balance where land sold under first registered judgment.

62. Where two or more creditors, by registering their judgments, have charged the same immovable property with the payment of their debts, and one of them has sold the property in satisfaction of his debt, if upon the sale there remains a balance after satisfaction of the debt and costs of execution, it shall be applied, in priority to the claims of any other creditor, in satisfaction of the debt of any other creditor who has registered his judgment, or, if there be more than one such creditor, in satisfaction of their debts in the order of priority of the registration of their judgments.

Judgment creditor may apply for registration of land in debtor's name.

Registration in Debtor's Name with a view to Execution.

63. A judgment creditor who wishes to enforce his judgment debt by sale of the interest of his debtor in immovable

property not registered in the name of the debtor or to render any immovable property not registered in the name of the debtor a security for his judgment debt, may apply to the District Lands Office for the registration of the property in the name of his debtor ; and whether the debtor is living or dead, registration may be effected in his name in the manner hereinafter provided.

64. The application shall be filed in the District Lands Office, and the proper officer shall enter a note of it in a book to be kept for the purpose, and also in the book directed to be kept by section 60. The books, together with the application, shall be open to inspection by any person during office hours.

Application to be filed and open to inspection.

65. Where such application has been made, the interest of the debtor in the property shall, during the period hereinafter appointed, be charged with the payment of the debt due under the judgment in priority to all debts or obligations of the debtor not specifically charged upon the property before the making of the application.

Effect of application.

The property shall so remain charged until the expiration of six months from the date when notice is received by the judgment creditor, under section 67 of this Law, that the District Lands Officer has effected or has refused to effect registration in the name of the judgment debtor.

66. (1) Upon the application being made, and subject to the following conditions :—

District Lands Officer may register the land accordingly.

- (a) that a local inspection of the property be made ;
- (b) that sufficient evidence be adduced of the right of the judgment debtor to be so registered ; and
- (c) that all fees and charges (including the payment in advance of the cost of the local inspection) which would have been payable by the judgment debtor, if the application had been made by him, be paid by the judgment creditor,

the District Lands Officer of the district in which the property is situate may cause it to be registered in the name of the judgment debtor :

Provided always that where the property is registered in the name of some other person it shall also be necessary either—

- (a) that the written consent duly authenticated of the person or persons in whose name or names the

property is registered, or, if dead, of his or their heirs, be produced, or

(b) that the following procedure be completed—

(i) where the District Lands Officer is satisfied that the person making the application has acquired a title to the said immovable property by prescription and that it would, in the opinion of the District Lands Officer, be impossible or out of reasonable proportion to the value of the said immovable property to require the written consent of the person or persons in whose name or names the said immovable property is registered or, if dead, of his or their heirs, to be produced ; and

(ii) the District Lands Officer or some other Lands Officer on his behalf has posted a notice at the place where public notices are usually posted in the village within the boundaries of which the said immovable property is situate ; such notice shall contain a description of the property, its extent, boundaries, situation, a statement of the registration as it exists in the books of the District Lands Office, the name of the person in whose name the property is proposed to be registered, and a statement of the grounds on which the proposed registration is intended to be made, and the notice shall call upon any person interested in the said immovable property to show cause within sixty days from the date of the posting of the notice why the proposed registration should not be made ; and

(iii) no objection to the proposed registration has been made within the said period of sixty days ; and

(iv) the approval of the Director of Lands and Surveys to the proposed registration is obtained.

Notice of grant or refusal of application to be given to creditor.
Application to Court on refusal.

67. The officer shall forthwith give notice to the judgment creditor that he has effected or refused to effect the registration.

68. If the officer refuses to cause the registration to be effected, the judgment creditor may apply to the District

Court of the district within which the property is situate, or to a Judge thereof, for an order directing the registration, and shall in every such case give the District Lands Officer reasonable notice of the date fixed for the hearing of the application.

At the hearing of the application, the District Lands Officer may attend and adduce any evidence which he may consider material or proper to be known by the Court.

69. (1) If on the hearing of the application, the Court is of opinion that the property in question ought to be registered in the name of the judgment debtor, it shall order it to be registered accordingly. Order on application.

(2) Except where the District Lands Officer declares that a local inspection is unnecessary, no order shall be made for the registration of any property under the provisions of this Part of this Law, until a local inspection has been made.

70. All fees and charges (including the cost of local inspection) paid by the creditor for obtaining registration of the property in the name of his debtor, shall be deemed to be costs of execution. Expenses of registration to be costs of execution.

71. Any interested party may apply to the Court to set aside any registration effected under this Part of this Law. Application to set aside registration.

PART VI.

EXECUTION BY SEQUESTRATION OF LAND.

72. When a writ of sale of immovable property has been issued, the Court, on the application of the debtor, and on his proving to the satisfaction of the Court that he is possessed of immovable property, and that the amount due under the judgment with all interest and costs payable and to become payable thereunder can be satisfied by sequestration of the property for a period not exceeding three years, may direct a sequestration of the property, and may thereupon stay execution by way of sale. Writ of sequestration on debtor's application.

PART VII.

EXECUTION BY ATTACHMENT OF PROPERTY.

Writ of attachment of movables or debts in hands of third person.

73. Where the judgment debtor is beneficially interested in any money, securities for money, goods or other movable property in the custody or under the control of any other person in Cyprus, or where such other person is indebted to the judgment debtor, a writ of attachment calling on such other person to appear before the Court and be examined touching the property in his hands which is mentioned in the writ, and directing him not to part with the custody thereof in the meantime, may be issued at any time after judgment on the application of the judgment creditor. The writ shall render the property of the judgment debtor which is in the hands of such other person answerable as hereinafter mentioned for the satisfaction of the judgment debt.

Service and effect of writ.

74. The writ shall be served on the person thereby directed to appear before the Court; and from the time of the service thereof upon him, all money, securities for money, goods and movable property to which the judgment debtor is beneficially entitled whether solely or jointly with others, and which at the time of the service of the writ, or at any time before it is dissolved, are or shall be in the custody or under the control of the person directed to appear, and all debts due or accruing due by him to the judgment debtor at or during that time shall, to the extent of the judgment debtor's interest therein, and subject to any *bona fide* prior title thereto or lien or charge thereon, become securities in his hands for the satisfaction of the claim of the judgment creditor.

Disobedience to writ.

75. Any person served with such a writ of attachment who shall, without leave or order of the Court, at any time after the service of the writ and before the attachment is dissolved, knowingly and wilfully part with the custody or control of any property attached in his hands, or remove it out of Cyprus, or sell or dispose of it or pay over any debt due by him to the judgment debtor, except only to or to the use of the judgment creditor, shall be deemed to have disobeyed, and shall be liable to the same process as though he had disobeyed an order of the Court.

Securing the property.

76. At any time after service of the writ the Court may make any order for the safe custody of any property mentioned in the writ.

77. Property in the hands or under the control of any public officer in his official capacity shall be liable to attachment in execution of a judgment with the consent of the Attorney-General; and property under the control of any Court shall be liable to attachment by order of the Court.

Property under control of public officer or Court.

78. The Court may, after hearing all persons whom it may consider to be interested, or after notice to them to attend, order that any part of the property attached which shall consist of money and bank notes, or a sufficient part thereof, shall be paid over to the judgment creditor, or that any part not consisting of money or bank notes, so far as may be necessary for the satisfaction of the judgment, shall be sold, and that the money realized by the sale, or a sufficient part thereof, shall be applied in satisfaction of the judgment, and that the writ be dissolved; or it may order that the writ be dissolved, or may make such other order as may seem just; and shall make such order as to the costs occasioned by the issue of the writ as it thinks proper.

Disposal of property attached.

79. If any person served with such writ of attachment fails to comply with any order the Court may make under the writ, the Court may order execution to issue against him for the amount of the property attached in his hands, or for such part thereof as shall be sufficient to satisfy the judgment and all costs of the proceedings, and execution may issue accordingly.

Execution against third party.

80. Satisfaction of the order by the person served shall be a valid discharge to him as against all claimants of the debts or property which he may have applied or disposed of in accordance with the order, although the attachment may have been set aside or the judgment reversed.

Indemnity to third party.

81. The Court may stay proceedings in any action commenced against the person served in respect of property attached in his hands, upon such terms as it thinks fit.

Stay of proceedings against third party.

PART VIII.

EXECUTION BY IMPRISONMENT.

82. Where upon any investigation by the Court respecting the ability of a judgment debtor to pay the amount due under a judgment or order it appears to the Court that the

When the debtor may be imprisoned.

creditor has been unable to obtain satisfaction of his judgment by the sale of the debtor's property or by attachment of property in the hands of some third party; and

- (a) that the debtor then has or since the making of the judgment or order has had sufficient means to pay the money directed to be paid by him or some part thereof which still remains unpaid, and that he refuses or neglects to pay it according to the judgment or order; or
- (b) that he has made or suffered to be made any gift, delivery, or transfer of any property, or charged, removed or concealed any property and has thereby prevented the creditor from obtaining payment of the judgment debt or any part thereof.

the Court may on the application of the creditor commit the debtor to prison for any term not exceeding twelve months, or until the payment of the sum due, subject to the provisions hereinafter contained; but may at any subsequent time order his release on the request of the creditor.

Subsistence
of debtor.

83. The creditor shall pay in advance for the subsistence of the debtor such sum to such person and in such manner as is or may be directed by Prison Regulations, and in default thereof the debtor shall be released.

Expenses of
debtor's
subsistence
to be
added to
debt.

84. Sums disbursed by a creditor for the subsistence of the debtor in prison shall be added to the costs of the judgment and shall be recoverable by execution against the property of the debtor; but the debtor shall not be detained in custody or arrested on account of any sums so disbursed.

Effect of
imprison-
ment.

85. A debtor once discharged shall not again be imprisoned on account of the same judgment or order, but his property shall continue liable to execution until the judgment or order is fully satisfied.

PART IX.

EXAMINATION OF JUDGMENT DEBTOR.

Application
for debtor's
examination.

86. Where a judgment for the payment of money remains wholly or in part unsatisfied (whether a writ of execution has issued or not), the judgment creditor may

apply that the debtor be examined respecting his ability to make the payment.

87. The Court shall have the same powers to compel the attendance of a judgment debtor for examination as it has to compel the attendance of a witness in a civil action. Compelling attendance for examination.

88. On the appearance of the debtor before the Court, he may be examined on oath by or on behalf of the creditor, and by the Court, respecting his ability to pay the money, and for the discovery of property applicable to the payment, and as to the disposal which he may have made of any property; and he shall be bound to produce on oath, or otherwise all books, papers and documents in his possession or power relating to property applicable to the payment. Examination.

89. Whether the debtor appears or not, the creditor, and all other witnesses whom the Court thinks requisite, may be examined on oath or otherwise respecting the matters aforesaid. Other evidence.

90. The Court may, if it thinks fit, adjourn the examination from time to time, and require from the debtor such security for his appearance at the adjourned hearing as seems fit, and, in default of his finding security, may order him to be detained in custody. Adjournment.

91. The Court may, if it thinks fit, upon or at any time after any such investigation, direct that the sum due under the judgment shall be paid by instalments at such times and in such amounts as it may think proper. Order for payment by instalments.

PART X.

MISCELLANEOUS.

92. Where a judgment settles any question of title to immovable property, service of a copy of the judgment at the District Lands Office shall be sufficient authority for the proper officer of that Office to make all necessary registrations consequent on the judgment. Officers of District Lands Office may act upon judgments.

93. Where a judgment directs partition of immovable property, a writ of partition may issue directing that a partition of the property may be made by a Land Registry Writ of partition.

Officer or any other person whom the Court may think fit to appoint for that purpose.

The Court before issuing the writ, may require the person applying for it to deposit such sum as the Court considers necessary for the costs of making the partition.

The writ shall be sufficient authority for the officer or person to whom it is addressed to make the partition ordered at any time after the receipt thereof by him, whether the persons amongst whom the property is to be partitioned are present at the time of making the partition or not.

Execution
of judgments
of Turkish
Family
Courts.
4 of 24/54.

94. For the purpose of executing the judgment of a Judge of a Turkish Family Court ordering the payment of money or the performance of any other act or thing, a District Court may, on the application of any person in whose favour the judgment is made, issue the same writs and orders as though the judgment had been actually given by the District Court; and may stay execution in the same manner as it may stay execution of its own judgment, and shall have all such powers in relation to the judgment as are specified in Part IX of this Law.

Saving.
5 of 24/54.

95. Nothing in this Law shall be held to annul or abridge the right of any Court to enforce obedience to any order issued by it under the provisions of the Courts of Justice Law.

Cap. 8.

Powers to
make Rules
of Sale.

96. (1) The Governor, with the advice and assistance of the Chief Justice and of the Director of Lands and Surveys may from time to time make rules (hereinbefore referred to as Rules of Sale), for regulating—

- (a) the conduct of sales of immovable property under this Law;
- (b) the appointment of persons to conduct the sales;
- (c) the fees to be paid to the District Lands Office or to any person on such sales;
- (d) the conditions under which the property is to be sold; and
- (e) the form of notice authorized by section 39, and the manner of serving it.

(2) The rules shall be consistent with this Law, and may empower the District Lands Officer to give any special directions as to the manner and conditions of sale where he thinks it advisable, but so that he shall not be

authorized to direct any sale to be carried out in a manner inconsistent with this Law.

(3) The rules may repeal or alter any previous rules.

(4) The rules shall be published in the Gazette, and shall come into force at any time specified in the rules or by order of the Governor published in the Gazette.

PART XI.

WRITS AGAINST IMMOVABLE PROPERTY. SALE OF LAND WHEN JUDGMENT CHARGED.

97. Notwithstanding anything contained in section 22, writs for sale of immovables may be issued at any time by the order of a Judge of a District Court.

Issue of writ against immovables.

98. Notwithstanding anything contained in this Law, immovable property may be sold in execution without the consent of the debtor or an order of the Judge after one year has elapsed from the time when the judgment has been made a charge on the land by registration.

Sale one year after registration.

99. On the expiration of the year in the last section mentioned the judgment creditor may, on notice being given to the judgment debtor, apply to the proper officer of the District Lands Office for sale of the property in execution of the amount remaining due on the judgment debt, and such officer shall thereupon proceed with the sale unless the debtor disputes the amount of the debt owing, in which case the matter shall be referred to a Judge of the District Court.

Procedure on expiration of year.

100. The proper officer of the District Lands Office may also sell so much property as is necessary to recover the charges incurred in such office and pay them to the judgment creditor:

Charges.

Provided that when the debt does not exceed ten pounds the creditor shall not recover a greater amount of costs than the amount of his debt.

101. The Governor, with the advice and assistance of the Chief Justice, may make Rules for the carrying out of the objects of this Part of this Law and of the second proviso to section 23 of this Law.

Rules.

PART XII.

SURETIES.

A surety who discharges the liability shall be entitled to an assignment of all securities held by the creditor and to stand in the place of the creditor, and use his name, if necessary, in order to obtain indemnification.
2 of 15/26.

102. (1) Every person who, being surety for the debt or duty of another, or being liable with another for any debt or duty, shall pay such debt or perform such duty, shall be entitled to have assigned to him, or to a trustee for him, every judgment, specialty, or other security which shall be held by the creditor in respect of such debt or duty, whether such judgment, specialty, or other security shall or shall not be deemed at law to have been satisfied by the payment of the debt or performance of the duty, and such person shall be deemed entitled to stand in the place of the creditor, and to use all the remedies, and if need be, and upon a proper indemnity, to use the name of the creditor, in any action or other proceeding at law in order to obtain from the principal debtor, or any co-surety, co-contractor, or co-debtor, as the case may be, indemnification for the advances and loss sustained by the person who shall have so paid such debt or performed such duty, and such payment or performance so made by such surety shall not be raised in bar of any such action or other proceeding by him:

Provided always, that no co-surety, co-contractor, or co-debtor shall be entitled to recover from any other co-surety, co-contractor, or co-debtor, by the means aforesaid, more than the just proportion to which, as between those parties themselves, such last mentioned person shall be justly liable.

Power to make Rules of Court.
3 of 15/26.

(2) The Governor, with the advice and assistance of the Chief Justice, may from time to time by writing under the hand and official seal of the Governor and the hand of the Chief Justice makes Rules of Court for the better execution of the provisions of this Part.