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# Condition of urgency in interim orders applied for *ex parte*



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Litigation, Cyprus

## 🕒 Facts

## 🕒 Decision

In a recent judgment, the Limassol District Court granted an interim order preventing the defendants, their representatives, agents or any other person acting on their instructions from transferring, mortgaging or alienating seven plots of land which were owned by the plaintiffs and – the plaintiffs claimed – had been illegally obtained by the defendants.

### Facts

The two plaintiffs claimed that the first named defendant (the son of the first plaintiff) had illegally forged the signature of his father (who held a power of attorney from both plaintiffs) and illegally sold seven plots of land to the other defendants.

Although the plaintiffs had been aware of these facts for more than a year, they nonetheless waited for the final outcome of the police investigation into the complaint they had made regarding the forgery before filing the action and the application for the interim order three months later.

Article 32 of the Courts of Justice Law **(1)** sets out the conditions that must be satisfied in order for the court to make an order, namely that:

- there is a serious matter to adjudicate;
- there is an apparent prospect that the plaintiff is entitled to relief; and
- it will be difficult to award justice at a later stage unless the order is issued.

These conditions were clearly met in the present case. Further, the court must also be satisfied that it is fair, on balance, to make the order. This condition was also met as the application sought, in effect, to maintain the status quo until the conclusion of the trial.

The matter of contention was that since the order had been applied for and issued *ex parte*, the court had to be satisfied that it was of an urgent nature in order to extend it until the conclusion of the trial.

The defendants claimed that the condition of urgency had not been met, since the plaintiffs had waited for more than a year after discovering the alleged forgery and illegal sale before instituting the action and applying for the interim order. The plaintiffs argued that they had needed to wait for the police to complete their investigations before filing the action and the application for the interim order. The action was filed three months after the conclusion of the investigation.

### Decision

The court accepted the plaintiffs' arguments. It ruled that three months was not an inexcusable delay and extended the order until the end of the trial.

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### Endnotes

(1) Law 14/1960.

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