

MEMORANDUM BY THE HONOURABLE MINISTER OF JUSTICE
AND PARLIAMENTARY AFFAIRS

Lease of Premises No. 11D, Zachary Street, Valletta
shown coloured blue on attached plan

Premises No. 11D, Zachary Street, Valletta was held in emphyteusis up to the 30th June, 1963, when the premises reverted to Government.

2. At the time of the reversion these premises were occupied as follows:

First Floor: Mr. Cecil Pace of the Firm "Pabros Limited" who has annexed this floor with premises No. 12 held on lease by him from private persons; and

Second Floor: The Firm "Calascione and Sons".

3. In the case of expiration of emphyteusis of Government property, it is the policy to recognise as tenants the persons actually occupying the premises at a new rent valuation whatever their title and even if they have none. Under normal circumstances, Messrs. Cecil Pace of the firm "Pabros Limited" and Messrs. "Calascione and Sons" would have been granted the lease of that part of the premises occupied respectively by them.

4. In the case of the first floor of these premises, there have been particular circumstances regarding its occupation prior to the expiry of the emphyteutical grant.

5. This floor was used by Notary Pellegrini as Natarial Offices for twenty one (21) years: he held the Offices on sub-lease from Mr. Renato Ellul. However, sometime in 1961 Ellul (through his wife) and the emphyteuta determined the lease that existed between them, thereby terminating the sub-lease Ellul had granted to Pellegrini, and the emphyteuta granted the premises on lease to Cecil Pace. Pace immediately sued Pellegrini to recover possession of the premises on the ground that Pellegrini was occupying the premises without title and judgment was given in his favour on 24th March, 1962, confirmed on appeal on 19th October, 1962. Pellegrini managed to stay execution of the judgment until early August, 1963, when he was finally evicted, and Pace, presumably, occupied the premises soon after.

6. In the meantime, that is on 30th June, 1963, the emphyteusis had terminated and the premises had reverted to Government. By official letter dated 22nd August, 1963, Government informed Pace that any lease existing on 30th June, 1963 had terminated together with the termination of the emphyteusis and that, in any case, Government did not intend to relet the premises to him on the termination of any lease existing on that date. He was further asked to hand over the keys to Government. Pace ignored this Official letter and had to be sued for the recovery of the premises. He was then ordered by the Court to quit the premises by the 28th March, 1965.

7. Pellegrini is claiming the return of the premises to him on the ground that he was the defacto occupier of the premises on 30th June, 1963 and also on moral grounds that is because his eviction had been legally manouvered.

8. Pace is requesting that he be allowed to retain possession on the ground that he was the 'de jure' tenant of the premises on 30th June, 1963.

9. The reason for the policy as described in paragraph 3 above has a twofold purpose: on the one hand Government is interested in offering conditions proper to the time of reversion and this cannot always be done unless existing titles are considered as terminated or are in fact terminated; on the other hand the Government wishes to avoid the hardship resulting from the eviction of the actual occupier and has an interest in avoiding the creation of problems which it would then be morally bound to solve.

10. So far no one of these parties has been recognized as tenant and no rent has been paid to Government since the termination of the emphyteusis on the 30th June, 1963. No one therefore has any legal claim to the tenancy. It is however necessary to settle this question in accordance with normal Government policy.

11. As regards the second floor the matter does not present any difficulty. Messrs. Alfred Calascione & Sons were in occupation at the date of termination of the emphyteusis and there are no other parties claiming this second floor.

12. As regards the first floor we have (1) a claim from Notary Pellegrini who was actually in occupation when the emphyteusis ended and who was subsequently evicted by Mr. Cecil Pace who enforced a judgment given prior to the termination of the emphyteusis and (2) a claim from Mr. Cecil Pace who was legally the tenant of this floor on the date of termination of the emphyteusis, but who was not in actual occupation at

that date/.....

that date as he was still in the process of evicting Notary Pellegrini. Judicial proceedings were taken by Government to evict Mr. Cecil Pace but the eviction order given by Her Majesty Commercial Court on the 28th January, 1965 has not been enforced to date.

13. The proper course to be followed in this case appears to be:-

(a) To enforce the judgment of the 28th January, 1965 against Mr. Pace and to have him evicted.

(b) Recognize Notary Pellegrini as tenant of the first floor.

(c) Recognize Messrs. A. Calascione & Sons as tenants of the second floor.

(d) Recover amounts due from the parties occupying the tenement with effect from date of termination of the emphyteusis,

with which Honourable Members are asked to agree.

Alternatively Honourable Ministers may wish to decide in lieu of paragraph (b) above to go to tender for the lease of the first floor.

4th November, 1968.

LAND 593/63.

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