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Treaty Series No. 19 (1929)

CONVENTION
between
Palestine and Egypt
concerning the
Reciprocal Enforcement of
Judgments

Cairo, January 12, 1929

Presented by the Secretary of State for Foreign Affairs
to Parliament by Command of His Majesty

LONDON:
PRINTED AND PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE
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1929
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• Cmd. 3368

Convention between Palestine and Egypt concerning the Reciprocal Enforcement of Judgments.

Cairo, January 12, 1929.

THE Undersigned:

Norman de Mattos Bentwich Esquire, Officer of the
British Empire, Military Cross, Attorney General to the
Government of Palestine, acting on behalf of the Government
of Palestine,

and

His Excellency Hafez Affi Bey, Minister for Foreign
Affairs of Egypt, acting on behalf of the Government of
Egypt,

Duly authorised by their respective Governments, have agreed
upon the following articles:—

ARTICLE 1.

In this Convention, unless the context otherwise requires,
“judgment” means any judgment or order given or made by a
Court in any civil or commercial proceedings, or by any religious
Court established by law, whether before or after the passing of this
convention, whereby any sum of money is made payable, and
includes an award in proceedings on an arbitration if the award has,
in pursuance of the law in force in the place where it was made,
become enforceable in the same manner as a judgment given by a
Court in that place.

“Original Court” in relation to any judgment means the Court
by which the judgment was given.

“Registering Court” in relation to any judgment means the
Court by which the judgment was registered.

“Judgment creditor” means the person by whom the judgment
was obtained, and includes the successors and assigns of that person.

“Judgment debtor” means the person against whom the
judgment was given, and includes any person against whom the
judgment is enforceable in the place where it was given.

ARTICLE 2.

The judgment given by any civil or commercial court or religious
court established by law in Palestine and Egypt shall be enforceable
in the territories of each of the two countries in accordance with the
procedure, and subject to the conditions, hereinafter provided:—

ARTICLE 3.

(1) The party seeking to enforce in Egypt a judgment of a
Palestinian Court shall apply within one year of the date of the
judgment for an order of exequatur. Such order shall be granted in
the form of an “ordonnance sur requête” by the President of the
Court of First Instance of the Mixed or Native Court (as the case

may be) of the place or one of the places in which execution is to be effected.

(2) The rules as to application to set aside such an order, the periods of limitation, and in general all the rules of procedure applicable under the relevant law in Egypt to an ordonnance sur requête shall apply to an order of exequatur issued in Egypt in pursuance of this convention.

(3) The party seeking to enforce in Palestine a judgment of an Egyptian Court may apply, within one year of the date of the judgment, to the President of the District Court of the District within which the judgment is to be enforced for the registration of the judgment in the Court.

(4) An order for registration in Palestine shall be liable to be set aside upon application by the judgment debtor in accordance with the procedure from time to time prescribed for setting aside the registration of a judgment under the Reciprocal Enforcement of Judgments Ordinance, 1922, or any other Ordinance substituted therefor.

ARTICLE 4.

(1) The judgment creditor shall, in support of his application, produce a certified copy of the judgment of which he seeks execution, in the form prescribed by the law of the country from which the judgment emanates and being enforceable therein. The seal and signature of the authority granting the certified copy shall be legalised in the case of an Egyptian judgment by the Minister of Justice or his representative, and in the case of a Palestinian judgment by the Chief Secretary of the Government of Palestine or his representative.

(2) Unless a judgment which it is sought to enforce under this convention is one which under the law of the country in which it was obtained was capable of being enforced, notwithstanding any appeal or opposition, the judgment creditor shall satisfy the President of the Court to which the application is made that no appeal or opposition is pending.

ARTICLE 5.

The President of the Court to which an application for the enforcement of a judgment is made shall not examine the merits of the case. He shall not refuse an order of exequatur or of registration (as the case may be), except in the following cases:—

- (a) If the Original Court acted without jurisdiction;
- or (b) if the judgment debtor, being a person who was neither ordinarily resident, nor possessing a commercial establishment, nor at the date of the entry of the action carrying on business within the jurisdiction of the Original Court, nor a party to a commercial contract, the subject matter of the action, which was intended to be executed, wholly or in part, within the jurisdiction of that Court, did not voluntarily appear or otherwise submit or agree to submit to the jurisdiction of that Court, particularly by choosing a place of service within that jurisdiction;
- or (c) if the judgment debtor, being a defendant in the proceedings, was not duly served with the process of the Original Court and did not appear, notwithstanding that he was ordinarily resident or was

carrying on business within the jurisdiction of that Court or agreed to submit to the jurisdiction of that Court ;
 or (d) if the judgment has given effect to a cause of action which for reasons of public policy could not have been entertained by the Court of the country in which execution is demanded ;
 or (e) if execution of the judgment is incompatible with the international Treaties and Agreements in force within the country in which execution is demanded ;
 or (f) if a contradictory judgment between the same parties and upon the same facts has been given by the Courts of the country in which execution is demanded ;
 or (g) if there has been fraud by the other party to the action calculated to influence the decision of the judges or if the documents on which the decision is based have since been recognised or declared judicially to be false.

ARTICLE 6.

The order of exequatur or of registration shall invest the foreign judgment with the same force and effect, and proceedings may be taken thereon, as if it had been a judgment originally obtained by the Court of the country in which execution is sought. The Court of which the President has granted the order of exequatur or of registration shall have the same control and jurisdiction over the judgment as it has over similar judgments given by itself so far as relates to execution.

ARTICLE 7.

Nothing contained in this convention shall apply to any judgment of a Court in Egypt or Palestine being :—

- (a) A judgment purporting to adjudicate on the title to or the right to possession of immovable property elsewhere than in Egypt or in Palestine (as the case may be), or to adjudicate as to any mortgage or charge or easement on such property ;
- (b) A judgment against the Government of Palestine, or the Government of Egypt or any Officer thereof in respect of any act done by such Officer in the course of his duty ;
- (c) A judgment given by a Consular Court or other Foreign Court in Egypt established in virtue of the Capitulations or other international conventions.

ARTICLE 8.

- (1) The present convention is made for a period of five years and shall come into force fifteen days after the date of signature.
- (2) If neither of the contracting parties shall have notified to the other one year before the expiration of the said term of five years its intention to discontinue the present convention, the convention shall continue in force for a further period of one year, and so on from year to year until the expiration of one year from the date on which notification of the intention to denounce it was given.

Done in duplicate, in English and Arabic, both texts being authentic.

Cairo, the 12th day of January, 1929.

NORMAN BENTWICH.
 HAFEZ AFIFI.