

1971  
May 13

[STAVRINIDES, L. LOIZOU, A. LOIZOU, JJ.]

PRODROMOS  
ANDREOU  
v  
MISHELLIS  
GEORGHIOU

PRODROMOS ANDREOU,  
*Appellant-Defendant,*  
v.  
MISHELLIS GEORGHIOU,  
*Respondent-Plaintiff.*

(Civil Appeal No. 4899).

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*Appeal—Credibility of witnesses—Appeals turning on such credibility—Principles upon which the Court will interfere are well settled.*

*Credibility of witnesses—Appeals turning on—See supra.*

*Held:* The only issue before the trial Court was one of credibility and it is quite clear from the judgment that the trial Judge without any hesitation believed the evidence of the plaintiff and rejected defendant's version. The principles upon which this Court acts in cases where credibility is concerned, are well settled. Useful reference may be made to *Kyriacou v. Aristotelous* (1970) 1 C.L.R. 172, one of the more recent cases on the subject.

*Appeal dismissed with costs.*

Cases referred to :

*Kyriacou v. Aristotelous* (1970) 1 C.L.R. 172.

### **Appeal.**

Appeal by defendant against the judgment of the District Court of Nicosia (Santamas, Ag. D.J.) dated the 16th April, 1970 (Action No. 2171/69) whereby he was adjudged to pay to the plaintiff the sum of £49.050 mils being the balance of an account between the parties for meat sold and delivered by the plaintiff to the defendant.

*Ch. Loizou*, for the appellant.

*S. Nikitas*, for the respondent.

The judgment of the Court was delivered by :—

L. LOIZOU, J. : The respondent, a butcher, by his action claimed £81.850 mils against the appellant (defendant in the action), being the balance of an account between the parties for meat sold and delivered by the plaintiff to

the defendant. By his defence the defendant alleged that he never, personally, bought any meat from the plaintiff and that the said account was between the plaintiff and a place of entertainment known as "Bouzoukia". In the alternative, the defendant alleged that he had paid off any debt that he owed to the plaintiff ; and that the plaintiff was, on the contrary, indebted to him for a sum of £16.950 mils for goods sold and delivered by the defendant to the plaintiff, and for this sum, he counterclaimed.

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Before the hearing of the action commenced, counsel for the plaintiff stated to the Court that the plaintiff had, in the meantime, found out that three invoices representing a total of £23.400 mils had been paid off and were by mistake included in the claim and, he, therefore, reduced his claim accordingly to £58.450 mils.

The trial Judge heard the two parties to the action, each of whom gave evidence in support of his case. The defendant admitted in evidence that he had been purchasing meat from the plaintiff for the place of entertainment, in question, which he ran in partnership with somebody else, but added that as a rule he used to pay in cash and that on the occasions that he purchased on credit, he used to pay on his next visit to the plaintiff's shop.

It may be added that in the course of the hearing, the plaintiff admitted a debt of £11 out of the sum counterclaimed. At the conclusion of the hearing the two counsel, after a short break, informed the Court that it was agreed that the dispute between the parties related to an amount of £49.050 ; in other words that if the plaintiff were to succeed, the judgment in his favour should be for this amount.

In a very short judgment the trial Judge says that he has not been satisfied by the defendant that he paid off the debt to the plaintiff and that he believes the plaintiff that he was owed this amount by the defendant. He accordingly gave judgment against the defendant for the sum of £49.050 mils and he also awarded half the costs.

Against this decision the defendant now appeals on the ground that the trial Court erred in the assessment of the facts on the evidence adduced ; that the Court erred in accepting and believing the evidence given by the plaintiff ; and that the reasoning behind the findings of the trial Court is not warranted by the evidence adduced.

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Having heard counsel for the appellant, we did not consider it necessary to call upon counsel for the respondent. The only issue before the trial Court was one of credibility and it is quite clear from the judgment that the trial Judge without any hesitation, believed the evidence of the plaintiff and rejected defendant's version. The principles upon which this Court acts in cases where credibility is concerned, are well settled. Useful reference may be made to *Kyriacou v. Aristotelous* (1970) 1 C.L.R. 172, one of the more recent cases on the subject. In the present case it is sufficient to say that we have not been satisfied that there is any reason for interfering with the findings of the trial Judge.

In the result, the appeal fails and is dismissed with costs.

*Appeal dismissed with costs.*