CHRISTOFOROS ARISTIDOU AND ANOTHER,
Appellants-Defendants,

v.

CHRISTINA YIANNAKI KANTONIDOU AND ANOTHER,
Respondents-Plaintiffs.

(*Civil Appeal No.* 4717).

Contract—Interpretation—Principles applicable—Dowry agreement—Construction—Where the nature of the deed and relation of parties as father and child give a clue to the " natural intention " a Court will struggle with the language to give effect to such intention—See further infra.

Dowry agreement—Parents giving to their daughter as a dowry a house and two outbuildings, on condition that the parents (now appellants) would be entitled so long as they live to reside in the outbuildings—On the true construction of such agreement, the said house, including the said outbuildings should be transferred and registered in the name of the daughter—Subject to the right of the parents to reside in the outbuildings so long as they live—Consequently, rightly the trial Court ordered the specific performance of the contract as aforesaid.

Dowry agreement—Specific performance—See supra.

By clause 5 of the dowry agreement in question in this case, the parents (now appellants) undertook to give as dowry to their daugter (respondent 1), *inter alia,* a house and two outbuildings, on condition that the appellants would be entitled to live in the outbuildings so long as they live. The trial Court ordered the specific performance of the contract—directing the transfer and registration of the house and the two outbuildings in the name of the daughter, respondent No. 1—subject to their right to reside in the outbuildings so long as they live.

It was argued by the parents (appellants) that on the true construction of clause 5 (*supra*) the house only should have been transferred to the daughter (respondent No. 1).

Dismissing the appeal, the Court :—

Held, (1). In interpreting an agreement in writing the function of a Court is to ascertain what the parties meant by the words they have used, by deciding about the meaning of what is written in the instrument, and not of what was intended to have been written, to give effect to the intention as expressed, the expressed meaning being, for the purpose of interpretation, equivalent to the intention (Halsbury's Laws of England, 3rd ed. Vol. 11, p. 518, paragraph 450).

(2) In construing the aforementioned clause 5, we have not lost sight of the principle that where the nature of the deed and the relation of the parties as father and child—give a clue to the " natural intention " a Court will struggle with the language to give effect to such intention (see Halsbury's *supra*, note (i) to paragraph 629 ; and *Shore* v. *Wilson*, 8 E.R. 450, at p. 518).

(3) We are of opinion that what the said clause 5 clearly establishes is that it has been agreed that the whole property, including the house, outbuildings and all the land covered by the relevant registration No. 21288, should be registered in the name of the daughter (respondent No. 1), subject of course, to the right of the parents (appellants) to reside so long as they live in the two outbuildings ; and, of course, should that right be infringed they can claim damages or any other legal remedy open to them.

Appeal dismissed.

Cases referred to :

Shore v. *Wilson*, 8 E.R. 450, at p. 518.

Appeal.

Appeal by defendants against the judgment of the District Court of Limassol (Vassiliades, D.J. and Ioannides, Ag. D.J.) dated the 23rd April, 1968 (Action No. 1845/65) whereby an order of specific performance was made in favour of plaintiff No. 1, by virtue of which a property in Ayia Phylaxis, under registration No. 21288 was registered in the name of the said plaintiff.

M. Houry, for the appellants.

J. *P. Potamitis*, for the respondents.

The judgment of the Court was delivered by :—

TRIANTAFYLLIDES, P. : The two appellants—who are the father and mother, respectively, of respondent No. 1, who is the wife of respondent No. 2—appeal against an order of specific performance made in favour of respondent No. 1, by virtue of which a property in Ayia Phylaxis, under registration No. 21288 of the 15th August, 1967, was registered in the name of respondent No. 1.

This order was made on the strength of a dowry agreement between the parties, dated the 27th April, 1958 ; by clause 5 of such agreement the appellants gave respondent No. 1, as dowry, *inter alia*, a house and two outbuildings, on condition that the appellants would be entitled so long as they live to reside in the outbuildings.

All we are concerned with in this appeal is the interpretation of the said clause 5 of the dowry agreement, it being common ground that the property described in such clause is the property to which registration No. 21288 relates.

It has been the contention of the appellants that on a proper construction of clause 5 the outbuildings, in which they are entitled to reside for life, as well as part of the yard of the property concerned, should have remained registered in their names, and only the remaining part of the property, namely the house, should have been registered in the name of respondent No. 1.

In interpreting an agreement in writing the function of a Court is to ascertain what the parties meant by the words which they have used, by deciding about the meaning of what is written in the instrument, and not of what was intended to have been written ; to give effect to the intention as expressed, the expressed meaning being, for the purpose of interpretation, equivalent to the intention (see Halsbury's Laws of England, 3rd ed., vol. 11, p. 382, paragraph 629 ; and *Shore* v. *Wilson*, 8 E.R. 450, at p. 518).

In construing the aforementioned clause of the dowry agreement we have not lost sight of the principle that where the nature of the deed and the relation of the parties—as father and child—give a clue to the " natural intention " a Court will struggle with the language to give effect to such intention (see Halsbury's, *supra*, note (i) to paragraph 629). We are of the opinion that what the said clause clearly establishes is that it has been agreed that the whole

property, including the house, outbuildings and all the land covered by registration No. 21288, should be registered in the name of respondent No. 1, subject to the right of the appellants to reside, so long as they live, in the outbuildings ; and, of course, should that right be infringed they can claim damages or any other legal remedy open to them under the law.

We therefore have to dismiss this appeal ; and we are grateful to learned counsel for both sides for appearing before us to assist us in this case which, though simple, has become difficult in view of the refusal of the appellants to understand that they had to honour their obligation under the dowry agreement, not as they wished it to be read, but as it should be read. In view of the relationship between the parties we have decided to make no order as to the costs of this appeal.

Appeal dismissed.