

1972  
Dec. 7

[TRIANTAFYLLIDES, P., STAVRINIDES, MALACHTOS, JJ].

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LANITIS  
BROS. LTD. (No.2)  
v.  
THE MUNICIPAL  
CORPORATION  
OF LIMASSOL

LANITIS BROS. LTD. (No. 2),

*Appellants,*

v.

THE MUNICIPAL CORPORATION OF LIMASSOL,

*Respondent.*

(Criminal Appeal No. 3368).

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*Advertisement—Displaying or causing to be displayed an advertisement—Section 4(b) of the Display of Advertisements (Control) Law, Cap. 50—Advertisement prepared by Appellant company and given to shopkeeper—Displayed on the outside side of a wall of his coffee-shop—Nothing which could establish beyond reasonable doubt that Appellant Company caused advertisement to be displayed by the shopkeeper or that it took steps to display it itself—No conviction with the certainty required in a criminal case—Section 3(1)(d) of the Law—Papa Philippou v. The Police, 19 C.L.R. 129 distinguished.*

Cases referred to:

*Papa Philippou v. The Police, 19 C.L.R. 129.*

**Appeal against conviction.**

Appeal against conviction by Lanitis Bros. Ltd. who were convicted on the 8th August, 1972 at the District Court of Limassol (Criminal Case No. 11862/71) on one count of the offence of displaying or causing to be displayed an advertisement contrary to section 4(b) of the Display of Advertisements (Control) Law, Cap. 50 and was sentenced by Kronides, D.J. to pay a fine of £7.- and £1.- costs.

*L. Olymbiou (Mrs.) with V. Sarris, for the Appellant.*

*J. Potamitis with L. Tsikkinis, for the Respondent.*

The judgment of the Court was delivered by:—

· TRIANTAFYLLOIDES, P.: In this case the Appellant company has appealed against its conviction of the offence of displaying or causing to be displayed an advertisement, contrary to the provisions of section 4(b) of the Display of Advertisements (Control) Law, Cap. 50.

It has been established by evidence that between the 1st October, 1970, and the 31st July, 1971, there was displayed, on the outside side of a wall of a coffee-shop in Limassol, an advertisement showing a “Coca-Cola” bottle with the words “ΠΙΝΕΤΕ ΚΟΚΑ-ΚΟΛΑ” (“Drink COCA-COLA”).

A witness called by the Appellant before the trial Court testified that the Appellant prepared this advertisement and gave it to the shopkeeper and that, later, it became the property of the shopkeeper by virtue of an agreement in writing dated the 31st May, 1971.

Ignoring certain inadmissible evidence which, unfortunately, was received at the trial and, to a certain extent, was relied on by the trial Court, we find that the only evidence on which the conviction of the Appellant might be based was to the effect that there were many similar advertisements of Coca-Cola displayed in other parts of Limassol, that the advertisement in question was prepared by the Appellant and given by it to the shopkeeper, and that the Appellant produces the refreshment drink known as “Coca-Cola”, to which the advertisement relates.

As, in view of section 3 (1) (d) of Cap. 50 the display of an advertisement “within a building and not readily visible from outside such building” cannot be an offence contrary to section 4(b) of Cap. 50, and as there was nothing which could establish beyond reasonable doubt—though there might be reason for strong suspicion to that effect—that the Appellant company caused the advertisement to be displayed by the shopkeeper on the *outside* side of one of the walls of his coffee-shop or that the Appellant took steps to display it there itself, we have to hold that the Appellant was not convicted with the certainty required in a criminal trial and, therefore, this appeal has to be allowed.

The similar case of *Papa Philippou v. The Police*, 19 C.L.R. 129, is distinguishable from the present one in view of the particular facts on the basis of which it was decided; and,

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as correctly stressed in the judgment in that case, it is for the Court in each case to find, as a question of fact, who is actually the exhibitor of an advertisement. In the present case, as already stated, it could not be found beyond reasonable doubt that the exhibitor was the Appellant.

As a result we have to set aside the conviction appealed from, as well as the sentence which was consequently imposed on the Appellant.

The order for costs made against the Appellant by the Court below is also set aside; but in the light of all relevant considerations we do not deem it proper to make any order for the costs on appeal.

*Appeal allowed.*