

1981 December 20

[TRIANTAFYLLIDES, P.]

IN THE MATTER OF THE CHARITIES LAW, CAP. 41.

“ORPHANAGE AND TRAINING SCHOOL, DEMETRAKIS  
G. DIANELLOS OF LARNACA”,

*Plaintif,*

v.

THE ATTORNEY-GENERAL OF THE REPUBLIC,

*Defendant.*

*(Charity Application No. 3/81).*

*Charitable Trusts—Trust property—Development of—Application for approval of erection of three storeys of apartments—And for approval of loan for the purpose of such project—Granted subject to condition for filing accounts—Section 13 of the Charities Law, Cap. 41.*

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By means of this application the plaintiff charity sought the approval of this Court for the erection of three storeys of apartments on top of the already existing apartments' building next to the Sun Hall Hotel in Larnaca, and for the borrowing, in equal shares with the Archbishopric of Cyprus, of the amount of C£275,000 for the purpose of the above project.

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*Held*, that considering all the material in support of this application and, particularly, the detailed feasibility study about the proposed project of erecting three storeys of hotel apartments and taking into account, also, the fact that the defendant Attorney-General of the Republic consents to the making of the orders sought by the plaintiff, this Court approves in the exercise of its relevant powers under section 13 of the Charities Law, Cap. 41, the erection of the aforesaid three storeys of hotel apartments and the contracting of the aforementioned loan of C£275,000; and that, therefore, an order in accordance with paragraphs 1, 2, 3 and 5 in the motion for relief is hereby made subject to condition of filing yearly accounts as directed in the judgment. (*vide. p. 723 post*).

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*Application granted.*

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Cases referred to:

*The Bishop of Kitium and Others as Trustees of the Dianellos Charity (No. 1) v. The Attorney-General of the Republic* (1971) 1 C.L.R. 92;

- 5     *The Orphanage and Training School, Demetrakis G. Dianellos of Larnaca v. The Attorney-General of the Republic* (delivered on August 31, 1973 and not reported ).

#### Charity Application.

10     Application by the Board of Management of the charity known as "Orphanage and Training School, Demetrakis G. Dianellos of Larnaca", under section 13(b) of the Charities Law, Cap. 41, for approval for the erection of three storeys of apartments on top of the already existing apartments' building next to Sun Hall Hotel-in Larnaca.

15     *G. Nicolaidis*, for the plaintiff.

*M. Kyprianou*, Senior Counsel of the Republic, for the defendant.

*Cur. adv. vult.*

20     TRIANTAFYLLIDES P. read the following judgment. The Board of Management of the plaintiff charity are seeking, in effect, by means of the present charity application, approval for the erection of three storeys of apartments on top of the already existing apartments' building next to the Sun Hall Hotel in Larnaca, which belongs to the Sun Hall partnership,  
25     in which the plaintiff charity and the Archbishopric of Cyprus are equal partners.

30     The three new storeys of apartments (fourth, fifth and sixth storeys of the already existing apartments' building) will be erected again in partnership, in equal shares, with the Archbishopric of Cyprus and, in accordance with the architectural plans which have been produced in support of the present application, the total cost of the three new storeys, including the cost of equipping them and furnishing them in such a way as to make them hotel apartments, will not exceed C£470,000.

35     For the purpose of the above project it is intended that the plaintiff charity will contract a loan from the Bank of Cyprus for the amount of C£275,000 with interest at 9% per annum,

which will be payable in twenty-four equal quarterly instalments until the year 1990. The said loan will be contracted in equal shares with the Archbishopric of Cyprus and approval is, also, sought, by means of the present charity application, for the borrowing, by the plaintiff charity, in equal shares with the Archbishopric of Cyprus, of the aforementioned amount of C£275,000. 5

On November 27, 1981, I gave in this case an Interim Decision\* the contents of which need not be repeated in this judgment, except to the extent of stating that I refused to consider then the merits of the present charity application because I found that the plaintiff charity had failed to comply with certain requirements imposed when judgment was given in an earlier related charity application No. 1/70 (see *The Bishop of Kitium and Others as Trustees of the Dianellos Charity (No. 1) v. The Attorney-General of the Republic*, (1971) 1 C.L.R. 92) as well as when judgment was given in charity application 2/73 (see *Orphanage and Training School, Demetrakis G. Dianellos of Larnaca v. The Attorney-General of the Republic*; the said judgment was given on August 31, 1973, and it was not reported). 10 15 20

Since then the plaintiff charity in the present application has complied sufficiently with the aforementioned requirements by filing all relevant accounts and, therefore, I can now proceed to examine this charity application on its merits. 25

I have considered all the material which has been placed before me in support of this application and, particularly, the detailed feasibility study about the proposed project of erecting three storeys of hotel apartments and I have decided, taking into account, also, the fact that the defendant Attorney-General of the Republic consents to the making of the orders sought by the plaintiff, to approve, in the exercise of the relevant powers of this Court under section 13 of the Charities Law, Cap. 41, the erection of the aforesaid three storeys of hotel apartments and the contracting of the aforementioned loan of C£275,000. 30 35

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\* Reported in this Part at p. 624 *ante*.

I, therefore, make an order in accordance with paragraphs 1, 2, 3 and 5 in the motion for relief in this charity application, on condition that the plaintiff charity will take all necessary steps to file yearly accounts—for each calendar year starting  
5 with 1982—about the financial situation in relation to the project which has been approved by means of the present judgment, and, also, that condition No. 4, which was imposed by means of the judgment in *The Bishop of Kitium*, case, *supra* (see the judgment in that case, at p. 107) will remain in force  
10 and will apply, also, to the three storeys of hotel apartments for the building of which approval has been given by means of this judgment.

*Application granted.*