

1988 February 23

[PIKIS, J.]

STELIOS FINIOTIS,

Plaintiff,

v.

1. GREENMAR NAVIGATION LIMITED,
2. THE SHIP «SUNDANCE» UNDER CYPRUS FLAG
NOW LYING AT THE PORT OF LIMASSOL,

Defendants.

(Action No. 223/87).

Admiralty — Jurisdiction — Seaman's action for wages and other benefits against his employers — Whether section 30 of the Termination of Employment Law 24/67 deprived the Supreme Court of its jurisdiction to try such an action — Question determined in the negative — Law 24/67 must be read subject to the Courts of Justice Law 14/60, which by section 19 vests exclusive jurisdiction to the Supreme Court to try all Admiralty actions. 5

This is a seaman's action for the recovery of wages and other benefits allegedly due by his employers, the Ship «SUNDANCE» and GREENMAR Navigation Limited. The defendants dispute the jurisdiction of the Court. In their contention the Arbitration Tribunal established under the Termination of Employment Law 24/67, and Regulations made thereunder, has sole competence under section 30 to try the action. 10

Held, (1) The basic law providing for the establishment of inferior courts and the vesting of original jurisdiction in the several courts of the Republic, is the Courts of Justice Law (14/60). Every other law providing for the establishment of inferior courts such as the Arbitration Tribunal, and their jurisdiction, must be read subject to the provisions of Law 14/60 including, no doubt those of s.19 that rests exclusive jurisdiction to the Supreme Court to try Admiralty actions. 15 20

(2) Thus read, the provisions of s.30 of Law 24/67 exclude admiralty actions coming within the compass of the provisions of s.19 (a) of Law 14/60. 25

Order accordingly.

Cases referred to:

Efthymiadou v. Zoudros and Others (1986) 1 C.L.R. 341;

Phassouri Plantations v. Georgiou (1982) 1 C.L.R. 766.

Preliminary objection.

Preliminary objection by defendants to the effect that the action brought against them is not amenable to the jurisdiction of the Supreme Court in the exercise of its Admiralty jurisdiction.

5 *N. Pirillides*, for plaintiff-respondent.

X. Xenopoulos, for defendants-applicants.

Cur. adv. vult.

PIKIS J. read the following judgment. This is a seaman's action for the recovery of wages and other benefits allegedly due by his
 10 employers, the Ship «SUNDANCE», and GREENMAR NAVIGATION LIMITED. The defendants dispute the jurisdiction of the Court. In their contention the Arbitration Tribunal established under the Termination of Employment Law 24/67, and Regulations made thereunder, has sole competence to try the
 15 action. The competence of the Supreme Court in the exercise of its Admiralty jurisdiction to take cognizance of and try the action was set down for preliminary determination. If no power vests in the Supreme Court the action must necessarily be dismissed for want of jurisdiction.

20 Counsel for the defendants argued that s. 30 of Law 24/67* vests exclusive jurisdiction in the Arbitration Tribunal to hear every dispute arising from the termination of a contract of employment. Hence the action of the plaintiff, founded as it is on a breach of a contract of employment, is solely amenable to the jurisdiction of
 25 the Arbitration Tribunal notwithstanding the fact that the contract allegedly breached referred to plaintiff's employment on a ship. Counsel argued that the effect of s.30 was similar to that of s.4(1) of the Rent Control Law, 1975 (36/75) and by analogy thereto it should be construed as conferring exclusive jurisdiction to the
 30 Arbitration Tribunal to adjudicate upon every dispute arising from the breach of a contract of employment. He drew attention to the case of *Efthymiadou v. Zoudros and Others***, deciding that s.4(1) of Law 36/75 had the effect of vesting jurisdiction in the Court established thereunder to take cognizance of every dispute
 35 affecting rent controlled premises.

For the respondent it was submitted that the provisions of s.30 - Law 24/67 - must be read and applied subject to those of s.19(a) of the Courts of Justice Law (as amended) that vest exclusive

* (As amended by s.3 of Law 6/73)

** (1986) 1 C.L.R. 341.

jurisdiction in the Supreme Court to try every admiralty action. An admiralty action is defined by s.19(a) as every action of a species amenable to the jurisdiction of the English Admiralty Court on the day immediately preceding independence. The Admiralty jurisdiction of the High Court of England was defined by s.1(1) of the Administration of Justice Act 1956. In accordance with the provisions of para. (O) of the aforementioned subsection of the law, a claim by a member of the crew of a ship for wages and other emoluments due to him in virtue of his contract of employment, falls within the Admiralty jurisdiction of the High Court. Before tackling the issue of jurisdiction, we might with benefit refer to *Phassouri Plantations v. Georghiou** where the combined effect of subsections 1 and 2 of s.30 of Law 24/67 was explored. It was held that for claims within the monetary limit of its jurisdiction the Arbitration Tribunal has sole competence to take cognizance of every action affecting breach of a contract of employment. For claims above that limit jurisdiction may be assumed and exercised by the District Court; provided that recourse to anyone of the two Courts precludes reference to the other.

In the case of *Efthymiadou*, supra, analysis is made of the constitutional basis of the jurisdiction of inferior courts in the sense of Article 152 of the Constitution. Such jurisdiction may be exercised in accordance with the law setting up and regulating courts subordinate to the constitutional hierarchy of judicial power. The basic law providing for the establishment of inferior courts and the vesting of original jurisdiction in the several courts of the Republic, is the Courts of Justice Law (14/60). Every other law providing for the establishment of inferior courts, such as the Arbitration Tribunal, and their jurisdiction, must be read subject to the provisions of Law 14/60 including, no doubt, those of s.19. Thus read, the provisions of s.30 of Law 24/67 exclude admiralty actions coming within the compass of the provisions of s.19(a) of Law 14/60. This conclusion is also consonant with the statutory adoption of special rules affecting the formation and breach of seamen's contracts, as well as the compensation payable in those circumstances**.

Therefore, the subject matter of the proceedings is solely amenable to the jurisdiction of this Court and appropriate directions will be given in due course for the definition of the issues and trial of the action.

Order accordingly.

* (1982) 1 C.L.R. 766

** (See, *The Merchant Shipping (Captains and Seamen) Law, 1963 (46/63)*).