

1988 February 8

(A. LOIZOU, SAWIDES, KOURRIS, JJ.)

N. M. MICHAELIDES,

*Appellant-Defendant,*

v.

MICHAEL JAMES HICKMAN,

*Respondent-Plaintiff.*

*(Civil Appeal No. 7031).*

*Companies — A registered company has a legal entity distinct from its members.*

The sole question argued in this appeal is whether, in the circumstances, the respondent (plaintiff) ought to have brought the action against a limited company formed by the appellant (defendant) some time after the contract of employment and the contract for commission, which were the basis of the action, had been made between the parties. The trial Court found that the respondent was never informed of the formation of the Company and consequently never accepted to be employed by it and that no new contract was entered into between the said Company and the respondent replacing the old one between the parties. 5 10

Held, dismissing the appeal: There is no reason whatsoever to interfere with the findings of facts and the conclusions drawn thereon by the trial judge. 15

*Appeal dismissed with costs.*

**Appeal.**

Appeal by defendant against the judgment of the District Court of Nicosia (Kallis, D. J.) dated the 29th June, 1985 (Action No. 3847/83) whereby he was adjudged to pay to the plaintiff the sum of £585 due as salaries for services rendered as a lecturer or teacher of the English language at the school of the defendant. 20

- A. Eftychiou, for the appellant
- I. Avraamides, for the respondent.

- A. LOIZOU J. gave the following judgment of the Court. By virtue of a written agreement entered into between the appellant and the respondent, the latter was engaged as a lecturer or teacher of the English Language at the school of the appellant, known as
- 5 College of Arts and Sciences, for a year as from the 1st September 1981 at a salary of £230 per month. Furthermore at about the end of 1979 the appellant orally agreed to pay to the respondent 10% commission on the school fees collected by him from students whose registration was effected through the efforts of the latter.
- 10 The respondent rendered the agreed services to the appellant from the 1st September 1981, to the 30th June 1982 and was prepared and willing, if called upon by the appellant, to offer his services during the remaining two months. The respondent was paid his salaries until and including the end of April 1982, but he
- 15 was not, as claimed, paid his salaries in full for the months of May and June, having been paid a total of £400 instead of £460. This amount of £60 was however, found by the learned trial Judge as not due and payable to the respondent as a receipt had been given by him for the full amount and there was no room in the
- 20 circumstances of this case as he concluded, for admitting extrinsic evidence to disprove the contents of the receipt signed by the respondent. Furthermore he was not paid any amount in respect of the months of July, August 1982. There was also due to the respondent an amount of £125 commission in respect of the
- 25 enrolment of a Lebanese student, for a period of two years for which the appellant was paid £1250 as fees. The appellant failed to pay the amounts due to the respondent and he was adjudged to pay £585 with costs to be assessed by the Registrar, all previous orders as to costs to stand.
- 30 The sole issue for determination in this appeal, as argued before us, is whether the respondent as plaintiff in the action ought to have sued a registered company limited by shares, formed by the appellant as from December 1981 under the name «N. M. Michaelides Advanced Studies Limited», which took over the
- 35 school in question of which the appellant was its General Manager as well as Vice Chancellor and Executive Principal of the school and not to have sued the appellant in his personal capacity.
- The learned trial Judge after analyzing in detail the evidence, concluded that the respondent was never informed of the
- 40 formation of the Company and consequently never accepted to

be employed by it and that no new contract was entered into between the said Company and the respondent replacing the old one between the parties so that the employer of the respondent would be, as from its formation, or some time thereafter, the said Company which was admittedly formed to take over the school in question. 5

A registered Company is a legal entity distinct from its members. As such it enjoys rights and is subject to duties which are not the same as those enjoyed or borne by its members; it has as it is frequently put a legal personality of its own. Admittedly there are exceptions to this general rule, and the veil of incorporation is in circumstances lifted but it has neither been claimed nor are there such circumstances that have any bearing on the issue before us. Moreover there has not been established any agreement to substitute a new contract for the old one. 10 15

On the totality of circumstances therefore as above set out we find no reason whatsoever to interfere with the findings of facts and the conclusions drawn by the learned trial Judge, and that his approach to the legal aspect of the case was correct.

In the result the appeal is dismissed with costs. 20

*Appeal dismissed with costs.*