

[HUTCHINSON, C.J. AND MIDDLETON, J.]

CHRISTODOULQ MICHAILIDES AND OTHERS, *Plaintiffs,*

v.

EPIPHANIOS, BISHOP OF PAPHO, *Defendant.*HUTCHIN-
SON, C.J.
&
MIDDLE-
TON, J.
1898

March 8

PROMISE—GIFT—DELIVERY—CONTRACT—MEJELLE, ARTICLES 837 ET SEQ. 862.

A promise to pay a subscription for educational purposes unsupported either by any consideration, or any condition involving expenditure incurred on the faith of the promise, does not amount to a contract upon which the promisee can sue.

E., the Metropolitan of the See of Papho, promised in writing that so long as he presided over the See he would pay an annual sum to the Committee for the time being of the Greek Educational Establishments of Nicosia.

E. continued to pay this sum for some time, but eventually declined to do so on the ground of want of means.

In an action brought by the Committee to compel E. to continue his subscription.

HELD: *that no contract existed between the parties rendering it obligatory upon E. to continue the payment of his promised subscription, the promise made by E. being no more than a gift not perfected by delivery and revocable at will before delivery.*

APPEAL from the District Court of Nicosia.

J. Kyriakides for the Appellant.

Templer, Q.A. (with him *Diran Augustin*), for the Respondent.

The facts and arguments sufficiently appear from the judgment.

Judgment: This is an appeal by the Defendant from a judgment of the District Court of Nicosia. The action was brought by the Plaintiffs, as Members of the Committee of the Greek Schools at Nicosia, claiming from the Defendant £66, being two years' subscription to the above mentioned schools.

March 10

The claim was founded on an entry signed by the Defendant in the Minute Book of the Schools, of which entry the following is a translation: " + Sophronius, Archbishop of Cyprus, certifies.

I, the undersigned, Epiphanius, Bishop of Paphos, in my capacity as such, do, on this the twelfth of April in the year one thousand eight hundred and ninety, declare and promise that, so long as I shall preside over the said See, I will pay regularly and in full to the Committee for the time being of the Greek Educational Establishments of Nicosia the settled contribution hitherto paid by this See to the said Educational Establishments of Thirty Three Pounds Sterling (£33) per annum.

In witness whereof the present act has been made under my hand.

At Nicosia.

+ Epiphanius,
Bishop of Papho."

HUTCHIN-
SON, C.J.

&

MIDDLE-
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CHRISTO-
DOULO
MICHAEL-
IDES

v.

EPIPHANIOS,
BISHOP OF
PAPHO

The defence was that there was no contract binding on the Defendant, and secondly that, if there was a contract, it was a contract to pay out of the Episcopal Funds.

The Court below decided that the Minute upon which the action is based did constitute a valid contract upon which the Defendant is personally liable, and gave judgment for the Plaintiffs for the amount claimed.

The only evidence of any consideration for the Defendant's promise is the statement of one of the Plaintiffs that "the Committee regulates the expenditure by the amount of subscriptions." If it had been shewn that some definite expenditure, contemplated by both parties at the time the promise was made, had been incurred on the faith of the promise, perhaps we might have held that there was a contract. If, for instance, the promise had been (expressly or impliedly), "if you will build a new school or repair the old one I will contribute so much towards the cost of it," the transaction might have been held to be different. But, in our opinion, there is no proof here of any consideration for the promise; there was no contract here, but the Defendant's undertaking was simply a promise to make a gift. Thousands of similar promises are made every day in any civilised country, and, although expenditure is very often incurred on the faith of them, every one knows that they are intended to be not *contracts* but only gratuitous promises, binding only on the conscience and honour of the promisor.

In our opinion, therefore, this case must be decided by Art. 837 and following of the Mejjellé. The gift has not been perfected; the thing promised has not been delivered; and, by Art. 862, "before delivery of a thing the donor can at will revoke the gift." That is what the Defendant has done; he has refused to deliver the gift which he promised, and that he is by law entitled to do. The appeal must therefore be allowed; the action must be dismissed, and the Plaintiffs must pay the costs of the action and of the appeal.

Appeal allowed.