CASES

DECIDED BY

THE SUPREME COURT OF CYPRUS

IN ITS ORIGINAL JURISDICTION AND ON APPEAL FROM THE DISTRICT COURTS.

[VASSILIADES, P. TRIANTAFYLLIDES, JOSEPHIDES, JJ.]

1968
Jan. 12

MICHAEL AHAPITTAS,

Appellant-Defendant,

v.

ROC-CHIK LTD.,

Respondent-Plaintiff.

(Civil Appeal No. 4644).

MICHAEL AHAPITTAS v. ROC-CHIK LTD.

Advocates—Affidavits—Practice of affidavits sworn by parties' advocates, in support of their client's case, deprecated—Such steps in Court proceedings are undesirable, unless indispensable.

Evidence—Advocates should not swear affidavits in support of their client's case—See above.

Affidavits—Sworn by advocates—Undesirable—See above.

Natural justice—Appeal—Alleged violation of rules of natural justice—Trial judge's observations in chambers before conclusion of the case, with a view to settlement—Allegation untenable.

Practice—Allegation of violation of rules of natural justice—Appeal—See immediately above.

In support of this appeal, appellant's advocate filed an affidavit as to what was said by the trial Judge in Chambers, before the conclusion of the case, when terms of settlement were being discussed. Respondent's advocate filed his own affidavit in opposition where he gave his version of what happened at that stage of the proceedings. In dismissing the appeal the Court made the following observations:-

This Court has had occasion to deprecate more than once the practice of affidavits sworn by the parties' advocates

in support of their client's case. The reasons why such steps in Court proceedings are undesirable, unless indispensable, are so obvious that we find it unnecessary to say more about it. This case demonstrates once more such reasons.

The facts sufficiently appear in the judgment.

Appeal.

Appeal against the judgment of the District Court of Nicosia, sitting at Morphou, (Attalides, D.J.) dated the 29th May, 1967 (Action No. 128/67) whereby the plaintiffs were awarded £105 for value of goods sold and delivered.

A. Pantelides, for the appellant.

E. Odysseos, for the respondent.

The judgment of the Court was delivered by:—

VASSILIADES, P.: This is an appeal from the judgment of the District Court, Nicosia, in action No. 128/67 (Registry of Morphou), awarding respondent-plaintiffs their claim for £105 value of goods sold and delivered, plus interest and costs; and dismissing appellant's counter claim for £100, value of a refrigerator alleged to have been sold to the respondents.

The appeal is taken on the rather unusual ground of violation of the rules of natural justice at the trial through the trial Judge expressing himself regarding the credibility of the appellant after hearing his evidence-in-chief and before the conclusion of the case.

In support of the appeal, appellant's advocate filed an affidavit to the effect that after his client's examination in chief a discussion followed in the Judge's chambers with a view to settlement when the trial Judge expressed his opinion as to the credibility of the appellant. Respondent's advocate filed his own affidavit in opposition where he gave his version of what happened at that stage of the proceedings.

This Court has had occasion to deprecate more than once the practice of affidavits sworn by the parties' advocates in support of their client's case. The reasons why such steps in Court proceedings are undesirable, unless indispensable, are so obvious that we find it unnecessary to say more

about it. This case demonstrates once more such reasons.

After hearing appellant's advocate this morning, we considered it unnecessary to call on the respondent.

It is obvious from the totality of the material before us that when the trial Judge, allegedly, expressed an opinion about the credibility of the appellant, the Judge was not referring at all to appellant's credibility as derived from his demeanour as a witness before him, but the Judge merely pointed out that in view of past correspondence it would be difficult to give credit to a material part of appellant's version; and the Judge did so in the course of a discussion with a view to settlement.

When the discussion with a view to settlement in the Judge's chambers failed to achieve its purpose, the hearing proceeded as usual in open Court, without counsel for the appellant taking any formal objection on the ground of the Judge being biased. The parties called all their evidence and addressed the Court thereon as usual. The trial Judge then reserved judgment sine die and delivered a considered judgment about three weeks later, which he read in open Court. The judgment is on the record and speaks for itself. Both the claim and the counter claim were carefully considered and the evidence adduced on both sides was sufficiently analysed and duly assessed. There is nothing in the judgment to lend any support to the contention for irregularity as suggested in the notice of appeal. We are unanimously of the opinion that there is no merit whatsoever in this appeal, considering especially what took place at the trial after the alleged irregularity.

Appeal dismissed with costs.

1968
Jan. 16

CYPRUS TELECOMMUNICATIONS AUTHORITY
v.
IOANNIS KOUKOULLIS

[TRIANTAFYLLIDES, LOIZOU, HADJIANASTASSIOU, JJ.]

CYPRUS TELECOMMUNICATIONS AUTHORITY,

Appellants-Defendants,

v.

IOANNIS KOUKOULLIS,

Respondent-Plaintiff.

(Civil Appeal No. 4643).

Civil Wrongs—Negligence—Employer and Employee—Safe system of working—Duty of employer to provide a safe system of working for his employees—Principles—Causal connection between the breach of such duty and the injuries suffered by the workman—In the instant case the workman was the sole person to be blamed for the injuries he had suffered.

Safe system of working—Duty of the employer to provide such system for his employees—Breach—Causal connection—See above.

Negligence—Employers and employees—Duty of the former to provide safe system of working for the latter—See above.

Employer and employee—Safe system of working etc. etc.—See above.

In this case the appellants—defendants appeal against a judgment of the District Court of Nicosia whereby they have been adjudged to pay to respondent-plaintiff, one of their workmen, damages for personal injuries resulting from the negligence of the defendants-employers, in that they failed to provide a safe system of work. On the 21st July, 1965, the respondent-plaintiff was a member of a gang of workmen in the employ of the appellants, working under the supervision of a foreman and engaged in the process of running new lines near Paramali village; in the course of his work he started climbing up a pole; having reached the top of a ladder, which was leaning against the pole, he got hold of the first of a number of iron steps, fixed on the pole, in order to climb higher up and reach the height at which he was going to work. He grabbed the first step, and in order to reach the next one, he was raising himself up by pulling on the first step; at that mo-