

CHARALAMBOS MICHAEL,

Appellant-Defendant,

v.

PREZOU KYRIAKOU AND 4 OTHERS,

Respondents-Plaintiffs.

(Civil Appeal No. 4693).

CHARALAMBOS
MICHAEL
v.
PREZOU
KYRIAKOU
AND 4 OTHERS

Practice—Appeal—Notice of—Amendment—Application for leave to amend notice of appeal under Order 35, rule 4, of the Civil Procedure Rules should be filed well in advance of the hearing of appeal—Grounds of appeal—Should be properly drafted.

Amendment—Appeal—Amendment of notice of appeal—See above.

Cases referred to:

HjiCosta (No. 2) *v. The Republic* (1965) 2 C.L.R. 95;

Papadopoullou v. Polycarpou, (reported in this Vol. at p. 352 *ante*);

S.O.R.E.L. Ltd. v. Servos (reported in this Vol. at p. 123 *ante*).

Application.

Application for leave to amend a notice of appeal under Order 35 rule 4 of the Civil Procedure Rules.

G. Tornaritis, for the appellant.

G. Rafael, for the respondents.

The following ruling was delivered by:-

TRIANTAFYLLIDES, J.: This appeal was filed on the 30th of January, 1968.

The notice of appeal, as filed, contains two grounds which are so general and vague as not to be at all in compliance with the provisions of Order 35, rule 4, of the Civil Procedure Rules.

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Counsel for the appellant, when filing the notice of appeal, did realise the generality and insufficiency of the way in which the said grounds were drafted because there is a note at the end of such notice to the effect that full grounds would be filed later upon the record of the case having been prepared.

The record has been ready since the 24th February, 1968 and in the possession of counsel for the appellant for a considerable time, and yet only yesterday supplementary grounds of appeal were produced, together with an application seeking leave to file them. Notice of this step was given late yesterday afternoon to counsel for the respondents.

Today, counsel for the respondents has not objected to leave being granted for filing the supplementary grounds of appeal and declared that he was ready to proceed with the hearing of the appeal in so far as they were concerned. But, such grounds relate only to ground of appeal (a) in the notice of appeal, namely, the one relevant to the factual aspects of the matter; and they do not, in any way, relate to, or enlighten the Court or the respondents regarding, what is behind ground of appeal (b) in the notice of appeal, which avers that the trial court erred in relation to the "legal criteria".

Counsel for respondents has, quite rightly, stated to us that he was not in a position today to proceed with the hearing of this appeal on ground (b), as drafted, and counsel for the appellant has now applied for an adjournment, so as to file supplementary grounds of appeal in respect of that ground too.

This is, indeed, a most regrettable state of affairs. Time and time again this Court has stressed the obvious necessity for the grounds of appeal to be properly drafted (see *Hji-Costa* (No. 2) v. *The Republic* (1965) 2 C.L.R. 95; *Papadopoulos v. Polykarpou*, reported in this Vol. at p. 352 ante); and that applications for leave to amend the grounds of appeal should be filed well in advance (see *S.O.R.E.L. Ltd. v. Servos* (reported in this Vol. at p. 123 ante).

We have taken the view, not without difficulty, that, once counsel for respondents does not object to the filing of the supplementary grounds of appeal regarding ground of appeal (a) in the notice of appeal, we should grant leave for the said grounds to be treated as forming part of the notice of appeal;

we have also decided to grant leave to counsel for the appellant to file and deliver, within three weeks from today, full supplementary grounds of appeal, regarding ground of appeal (b) in the notice of appeal.

This appeal is adjourned for hearing to 10 a.m. on the 10th December, 1968.

Costs for today against the appellant in any event.

*Application granted; order
for costs as above.*

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