

1979 April 11

[TRIANTAFYLIDIS, P., L. LOIZOU, SAVVIDES, JJ.]

ANTHOULLA HERACLEOUS,

*Appellant-Defendant,*

v.

KATERINA NICOLA DEMETRIOU,

*Respondent-Plaintiff.*

(Civil Appeal No. 5720).

*Credibility of witnesses—Findings of trial Judge as to, based on cogency of evidence and on demeanour of witnesses—Appellant failed to discharge onus of satisfying Court of Appeal that this is one of the exceptional cases in which it should interfere with such findings.*

This appeal turned on the findings of the trial Court on the credibility of the witnesses. The trial Judge accepted the evidence of the respondent as reliable and he stressed that he did so because he found it to be cogent; he, also, said that he had based his finding as to the credibility of the respondent on her demeanour as a witness. 5  
10

Regarding the evidence of the appellant, which was rejected, the trial Judge stated in his judgment that it was confused.

*Upon appeal by the defendant against the judgment of the trial Court adjudging her to pay the amount of C£58.850 mils to the plaintiff as balance due to her in respect of supply of water:* 15

*Held*, that a perusal of the record of appellant's evidence shows that the view of the trial Judge, that such evidence was confused, was fully warranted; that the appellant has failed to satisfy this Court, by discharging the onus cast upon her, that this is one of the exceptional cases in which this Court should interfere with the findings on credibility which were made by the trial Judge (see, *inter alia*, on this point *Charalambides v. HjiSoteriou & Son*, (1975) 1 C.L.R. 269, 277); and that, accordingly, the appeal must be dismissed. 20  
25

*Appeal dismissed.*

## Cases referred to:

- Charalambides v. HjiSoteriou & Son*, (1975) 1 C.L.R. 269 at p. 277;
- Charilaou v. HjiGeorghiou* (1976) 1 C.L.R. 193 at p. 196;
- 5 *Achillides v. Michaelides* (1977) 1 C.L.R. 172 at p. 179;
- Vassiliko Cement Works Ltd., v. Stavrou* (1978) 1 C.L.R. 389 at p. 396;
- Kika v. Lazarou* (1979) 1 C.L.R. 670 at p. 676.

## Appeal.

- 10 Appeal by defendant against the judgment of the District Court of Nicosia (Laoutas, D.J.) dated the 3rd May, 1977, (Action No. 491/77) whereby she was ordered to pay to plaintiff the sum of £58.850 mils as balance due in respect of supplying water to her.
- 15 *A. Danos*, for the appellant.  
*Chr. Ioannou*, for the respondent.

- 20 TRIANTAFYLLIDES P. gave the following judgment of the Court. This is a case in which the respondent, as plaintiff, brought an action against the appellant, as defendant, claiming an amount of C£58.850 mils as balance due to her in respect of supplying water to the appellant during the period from April to November 1975, in accordance with an oral agreement which was concluded between them in, or about, March 1975.

- 25 The total value of the water supplied under the said agreement was C£73.850 mils and, according to the evidence of the respondent, the appellant paid an amount of C£15 on August 26, 1975, leaving thus due a balance of C£58.850 mils. In this connection the respondent produced a detailed statement of account which was admitted in evidence without any objection
- 30 on the part of the appellant.

- 35 The appellant denied having made herself any agreement with the respondent regarding water supply as alleged by the respondent; she stated, however, that she did pay to the appellant, on instructions of her mother, C£20, and not C£15, in 1976, and not in 1975.

The trial Judge accepted the evidence of the respondent as reliable and he stressed that he did so because he found it to be

cogent; he, also, said that he had based his finding as to the credibility of the respondent on her demeanour as a witness.

Regarding the evidence of the appellant, which the trial Judge rejected, it is stated in his judgment that it was confused; and we do, indeed, agree with him in this respect because a perusal of the record of such evidence does show that his aforesaid view was fully warranted. 5

As a result the trial Judge gave judgment in favour of the respondent in accordance with her claim.

We are of the opinion that the appellant has failed to satisfy us, by discharging the onus cast upon her, that this is one of the exceptional cases in which we should interfere with the findings on credibility which were made by the trial Judge (see, *inter alia*, on this point *Charalambides v. HjiSoteriou & Son*, (1975) 1 C.L.R. 269, 277, *Charilaou v. Hji Georghiou*, (1976) 1 C.L.R. 193, 196, *Achillides v. Michaelides*, (1977) 1 C.L.R. 172, 179, *Vassiliko Cement Works Ltd. v. Stavrou*, (1978) 1 C.L.R. 389, 396, and *Kika v. Lazarou*, (1979) 1 C.L.R. 670, 676). 10 15

We, therefore, dismiss this appeal with costs.

*Appeal dismissed with costs.* 20