

1981 February 28

[DEMETRIADES, J.]

SCHEEPSWERF BODEWES-GRUNO AND OTHERS,  
*Plaintiffs,*

v.

THE SHIP "ALGAZERA",  
*Defendants.*

*(Admiralty Actions Nos. 271/79  
and 279-285/79).*

*Admiralty—Sale of ship—Order of sale of ship pendente lite by public  
auction—Highest bid much less than appraised value and ship  
not knocked down to highest bidder—No interest for this type  
of vessel—Order for her private sale at a price below the  
appraised value so that losses are minimised.*

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On September 23, 1980, after an application by the plaintiffs, the Court ordered the appraisal and sale of the defendant ship pendente lite. After a number of steps were taken by the defendants for the stay of execution of this order, some of which were dismissed and others, though granted on certain conditions, were not complied with by the defendants, the Marshal was, on the 13th December, 1980, directed to proceed with the sale of the ship by public auction. The vessel was on the 1st October, 1980 appraised at U.S. \$ 700,000. According to the officer who carried out the appraisal there could be no interest for this type of vessel, in view of its luxurious construction, unnecessary fittings and its small capacity; and that for this vessel there must be a special buyer, otherwise it had to be sold so that losses, for all concerned are minimised.

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The Marshal put up the ship for sale by public auction on December 29, 1980 but as the highest bid made was for U.S. \$350,000 he did not knock down the vessel to the highest bidder.

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On February 9, 1981, the Marshal informed the Court that he had received a private offer for the sale of the ship for U.S. \$550,000 and applied for directions.

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5 *Held*, on the application of the Marshal, that, considering the report and the evidence of the officer who carried out the appraisalment, the evidence of the Marshal and the adventurous history of the vessel whilst laid up in Limassol harbour, this is a proper case in which to approve the private sale of the vessel for U.S. \$550,000; that the owners of the vessel, or the persons defending the action as owners, are given the option to purchase the vessel at this figure and this option should be exercised within the next ten days.

10 *Application granted.*

**Application.**

Application by the Marshal for the sale of the defendant ship at U.S. \$550,000 by private treaty.

- 15 *L. Papaphilippou*, for the plaintiffs in Action No. 271/79.  
*N. Chr. Anastassiades*, for the plaintiffs in Action Nos. 279/79-285/79.  
*E. Montanios* with *D. HadjiChambis*, for the defendant ship.

*Cur. adv. vult.*

20 DEMETRIADES J. read the following ruling. On the 9th February, 1981, the Marshal informed, in writing, the Court that he had received a private offer for the sale of the ship for U.S. \$550,000 and asked for directions. The application of the Marshal was received by the Registry of this Court on the  
 25 10th February, 1981, and was brought to my knowledge on the 11th, when I made the following directions:

"Registrar: Please deliver copies of this application to counsel involved and ask them to appear before me on the 12th instant as I want to hear them on the matter".

30 On the 12th February, 1981, as a result of my above directions, the Marshal and all parties interested and/or involved in actions against the ship, appeared before me when counsel for the defendants, after making a number of submissions which were  
 35 rejected, applied for an adjournment so that he could oppose the application. On that day, counsel appearing in the actions of the crew against the vessel, stated that he had information that the offer made to the Marshal was valid until the 16th February, 1981, so in view of the urgency of the matter I fixed the application for hearing on the following day, so that counsel  
 40 could address me on the issue whether to approve the sale.

At the same time I gave directions that the Marshal be available in case anyone of the parties wanted to put questions to him.

The facts pertaining to these proceedings are, in brief, the following:

On the 23rd September, 1980, after an application by the plaintiffs, the Court ordered the appraisal and sale of the ship *pendente lite*. After a number of steps were taken by the defendants for the stay of execution of this order, some of which were dismissed and others, though granted on certain conditions, were not complied with by the defendants, the Marshal was, on the 13th December, 1980, directed to proceed with the sale of the ship by public auction.

The auction took place on the 29th December, 1980, after the Marshal had advertised the sale in six local daily newspapers and two shipping publications printed in Greece. As the highest bid made was for \$350,000, the Marshal did not knock down the vessel to the highest bidder.

The vessel was, on the 1st October, 1980, at the request of the Marshal, appraised by Mr. Stavros Karamontanis, who in his very detailed and thorough report, dated 8th October, 1980, states that the then value of the vessel was U.S. \$700,000, (or, at the then rate of exchange, C£250,000.-). The Marshal who is a lawyer, a Marine Master and a Surveyor of the Merchant Marine Department of the Ministry of Communications and Works of the Republic of Cyprus, agreed with the appraised value as on the 1st October, 1980. He himself had, on the 27th March, 1980, appraised the vessel at U.S. \$1,000,000.00.

As it appears from his report and the evidence he gave during these proceedings, Mr. Karamontanis based his appraisal on the commercial viability of the vessel. The ship, which, according to Mr. Karamontanis, was built at a cost of C£660,714.-, is of a very small capacity (200 tons) and is luxuriously built from the point of view of equipment, machinery and navigational facilities, which are not even to be found on much larger vessels and which were all unnecessary for its operation. In his opinion, it is a mystery why this vessel was built to such a high standard for such ostensibly small commercial return, in view of its size and its cargo capacity.

Mr. Abuzeid, the person who originally commissioned the building of the vessel and who gave evidence at the hearing of this action, said that when he and the other co-owner took delivery of same, they found difficulty in chartering it, or finding  
5 cargo to transport. Though he has not said so, it is clear from his evidence that the difficulties encountered by the owners of the vessel were due to her small cargo capacity or, else, there would be no need for his alleged decision to take the vessel back to the yards for lengthening.

10 Mr. Karamontanis, in his evidence, said that there can be no interest for this type of vessel, in view of its luxurious construction, unnecessary fittings and its small capacity, and that for this vessel there must be a special buyer, otherwise it has to be sold so that losses, for all concerned, are minimised. He further  
15 said that at \$550,000 the vessel would be viable to somebody who wants to buy it in order to lengthen it.

Having considered the report and the evidence of Mr. Karamontanis, the evidence of the Marshal, the adventurous history of the vessel whilst laid up in Limassol harbour, as this appears  
20 from the various reports of the Marshal, I have decided that this is a proper case in which to approve the private sale of the vessel for \$550,000.

However, I feel that in order to do justice, I must give the owners, or the persons defending the actions as owners, the  
25 option to purchase the vessel at this figure and this option should be exercised within the next ten days, or, else, the Marshal should sell the vessel to the person who has made the offer for \$550,000.

The proceeds of the sale to be brought into Court and to be  
30 placed in an interest bearing account.

*Application granted.*