1948
Nov. 12

Re MINOS PERDIOS.

But it is clear from the respondent's apology, as well as from what his counsel said about it in this Court, that the respondent does not yet appreciate what we consider to be by far the most serious aspect of his conduct, namely, the publication of material which clearly implied that an accused person was innocent and that the principal witness for the prosecution had given false evidence. That material was very clearly calculated to prejudice the fair trial of the proceedings.

The Courts of Justice Order imposes upon this Court the duty of protecting all the tribunals in the Island from those grave abuses and, in the public interest, we must discharge it.

We have come to the conclusion that the lowest penalty that we can reasonably impose is a fine of £100.

The respondent must also pay the costs of these proceedings.

He must remain in the custody of the Court, or, if necessary, in the Central Prison, until the fine is paid.

1948
Nov. 23

[JACKSON, C.J., AND MELISSAS, J.]

(November 22 and 23, 1948)

NICOLAS CHARALAMBOUS IOANNIDES AND OTHERS, *Appellants*,

v.

THE POLICE, *Respondents*.

(*Case Stated No.* 45.)

Gambling—Keeping a Gaming House—Betting Houses, Gaming Houses, Lotteries and Gambling Prevention Law, 1947, sections 3 (1) (a) and 5—"Rami" a game of mixed skill and chance. Evidence—Judicial notice—Notorious facts.

The first appellant was convicted of keeping a gaming house and the other appellants of gambling, viz. playing "Rami", in a gaming house, under sections 3 (1) (*a*) and 5 of the Betting Houses, Lotteries and Gambling Prevention Law, 1947. The trial Judge was of the opinion that the game of "Rami" is so well and so widely known in Cyprus that its character fell into that class of notorious facts of which a Court is entitled to take judicial notice. The point of law raised by the appellants was the question whether or not the trial Judge was entitled to find, as he did, and without evidence, that the game of "Rami" was a game of mixed skill and chance.

Held: (i) That the general character of the game of "Rami" as commonly played in Cyprus was alone in question, and this was in fact a matter of common knowledge among the people of Cyprus.

(ii) It is desirable that the courts should be cautious in extending the classes of subjects of which they will take judicial notice and in regard to which they will act upon conclusions of fact without evidence. If they must err at all, it would be better that they should err on the side of strictness than of latitude. In this case the trial Judge did not exceed the proper limits of the rule upon which he relied.

Judgment of the Acting District Judge affirmed.

Case stated by the Acting District Judge of Nicosia on the application of the appellants. (Case No. 2396/47.)

E. Kathidjotis for the appellants.

The Solicitor-General (*C. Tornaritis*), for the respondents.

The facts of the case are fully set out in the judgment of the Court which was delivered by:

JACKSON, C.J.: Yesterday, at the conclusion of the argument in this case, we expressed our opinion that the decision of the District Court must be affirmed and we said that we would give our reasons for our opinion to-day.

Among the points of law mentioned by the six appellants in their request to the District Court for the statement of a case, only one was pressed before us. This was the question whether or not the learned Acting District Judge was entitled to find, as he did, and without evidence, that the game of "Rami" was a game of mixed skill and chance. That finding was essential to support a conviction and if, in the absence of evidence, the Acting District Judge was not entitled to make it, an essential element of the charge of keeping a gaming house and of gambling in a gaming house (section 3 (1) (*a*) and section 5 of Law 15 of 1947) would be absent and the convictions could not be supported.

The learned Acting Judge was of the opinion that the game is so well and so widely known in Cyprus that its character fell into that class of notorious facts of which a Court is entitled to take judicial notice. The Solicitor-General supported that view and claimed that the game of "Rami" is one of the two most popular card games in Cyprus and is well known, one may say broadly, to all Cypriots. This was not denied by the advocate for the applicants. Nor was it denied that the game is in fact a game of mixed skill and chance.

1948
Nov. 23

NICOLAS CHARALAMBOUS IOANNIDES AND OTHERS v. THE POLICE.

No authority precisely in point was quoted and in this case no question arises as to the differring functions of judge and jury. The Judge exercised the functions of both. But authorities were cited which, in our view, pointed to the general conclusion that the tendency of courts in modern times is rather to widen than to narrow that class of generally known facts of which courts will take judicial notice. The object of that tendency is, of course, to limit the length and cost of judicial proceedings in the public interest. And it has seldom been counted to the unmixed credit of the courts when they have professed ignorance of facts which are notoriously within the knowledge of the general public.

We think it would be too much to say that in no circumstances could the general character of a popular game be so widely known that a court would be entitled to take judicial notice of it. If, for example, a case turned on the general character of the game of association football, and not on some fine point in the rules, it might well cause some legitimate surprise if, in these days, a court professed entire ignorance of the general character of the game. And if, in this case, a question had arisen as to the particular rules followed by the players of the game of " Rami " on the occasion which was the subject of the charge, it would, no doubt, have been necessary that evidence of those particulars should be given. But here the general character of the game as commonly played in Cyprus was alone in question and we are fully satisfied that this is in fact a matter of common knowledge among the people of the Island.

It is, of course, desirable that the courts should be cautious in extending the classes of subjects of which they will take judicial notice and in regard to which they will act upon conclusions of fact without evidence. If they must err at all, it is better that they should err on the side of strictness than of latitude. In this particular case, however, we feel unable to say that the Acting District Judge exceeded the proper limits of the rule upon which he relied.

The convictions must therefore be affirmed.