

MOUSOULIDES TRADING CO. AND OTHERS,  
*Appellants-Defendants,*  
v.  
KYPRONICS OF NICOSIA,  
*Respondents-Plaintiffs.*

MOUSOULIDES  
TRADING CO.  
AND OTHERS  
v.  
KYPRONICS  
OF NICOSIA

(Civil Appeal No. 4977).

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*Civil Procedure—Execution—Stay of execution of a judgment—  
Refused by the trial Court—Appeal against such refusal—  
Court of Appeal not persuaded that this is a case in which the  
exercise by the trial Court of its discretion in the matter should  
be interfered with—Appeal dismissed with costs.*

*Execution—Stay of—Proper exercise of discretion by the trial  
Court.*

The facts sufficiently appear in the judgment of the Court dismissing this appeal against the refusal by the trial Court of an application of the defendants (now appellants) to stay execution of the relevant judgment.

**Appeal.**

Appeal by defendants-applicants against the ruling of the District Court of Nicosia (Evangelides and Ioannou, Ag. D.JJ.) dated the 10th April, 1971 (Action No. 2971/69) whereby their application for stay of execution of a judgment which was given against them on the 5th June, 1970, in the above action, was dismissed.

*Chr. Mitsides*, for the appellants.

*L. Papaphilippou*, for the respondents.

The judgment of the Court was delivered by :—

TRIANTAFYLLIDES, P. : In this case the appellants-defendants appeal from a decision, dated the 10th April, 1971, of a Full District Court in Nicosia refusing to stay the execution of a judgment which was given against them on the 5th June, 1970, in civil action DCN 2971/69, on the basis of a settlement arrived at between the parties.

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As a result of the settlement, which is set out in a document filed in Court, judgment was given against the appellants in respect of a claim, in the action, by the respondents for money due to them by the appellants, and the counterclaim, in the same action, of the appellants against the respondents, was withdrawn on having been agreed between the parties that the matters arising in relation thereto would be referred to arbitration ; it was, also, agreed that there would be three months' stay of execution in relation to the judgment given against the appellants.

It appears that subsequently the arbitration proceedings became abortive and a new civil action, DCN 1532/71, was filed by the appellants in respect of what they had claimed by means of the counterclaim in the earlier action.

In view of these developments an application was made to the Court below for further stay of execution until the determination of the new action ; the stay was, as already stated, refused and, as a result, this appeal was made.

The learned judges of the Court below, in exercising their relevant discretion, took the view that this was not a proper case in which to stay execution as applied for by the appellants ; and we have not been persuaded that this is a case in which the exercise of such discretion should be interfered with : If the relevant application of the appellants had been successful this would have amounted, in effect, to a variation of the agreement which was concluded between the parties in relation to the settlement of the action in which the judgment, of which the execution is sought to be stayed, was given ; moreover, what followed after that settlement do not, in our opinion, constitute circumstances which should either have made the Court below grant the further stay of execution applied for or which call for our intervention in the matter in favour of the appellants.

As a result this appeal is dismissed with costs.

*Appeal dismissed with costs.*