

1977 November 24

[TRIANTAFYLLIDES, P., STAVRINIDES, L. LOIZOU,  
HADJIANASTASSIOU, A. LOIZOU, JJ.]

THE SHIP " REA " AND ANOTHER,

*Appellants—Defendants.*

v.

SOTERIOS KALOYIRAS,

*Respondent—Plaintiff.*

(Civil Appeal No. 5700).

---

*Admiralty—Practice—Arrest and custody of ship—Expenses of the  
Marshal—Order regarding payment of—Properly reserved for a  
later stage pending the developments at the hearing of the case on  
its merits.*

5 **Appeal.**

Appeal by defendants against the judgment of a Judge of  
the Supreme Court of Cyprus (Malachos, J.) given on the 15th  
April, 1977 (Admiralty Action No. 171/76) whereby he refused  
to make an order directing the plaintiff to pay forthwith into  
10 Court all expenses of the Marshal, arising out of the arrest and  
custody of the appellant ship.

*L. Papaphilippou*, for the appellants.

*M. Vassiliou*, for the respondent.

The following judgment was delivered by:

15 TRIANTAFYLLIDES P.: In this appeal, as it has been limited  
during its hearing, the appellants are complaining against the  
refusal, on April 15, 1977, of the trial Judge to make an order  
directing the respondent, who is the plaintiff in admiralty  
action No. 171/76, to pay forthwith into Court all expenses of  
20 the Marshal up to March 29, 1977, when such an order was  
applied for.

In his appealed from decision the Judge referred to an earlier  
ruling of his, which he gave on March 19, 1977, when the ques-

tion of the arrears of the costs of the Marshal, which had been incurred as a result of the arrest and custody of the defendant ship, had been again raised before him; he said then that "The ruling as to the amount of C£ 911 which is in arrears, will be given later pending the development of the hearing of the case on its merits, which is being continued today . 5

No appeal was made against the aforesaid ruling of March 19, 1977.

It is clear from the record before us that the reason why the Judge refused to make the order applied for on March 29, 1977, was that he had already reserved for a later stage during the hearing of the action his decision regarding the said arrears of C£ 911; and such decision will, obviously, be eventually given, in due course, as the proceedings in the action concerned are still continuing. 10 15

We are of the view that, in the circumstances, it was open to the Judge, on April 15, 1977, to refuse to make then an order regarding the payment into Court of the expenses of the Marshal and, therefore, we dismiss this appeal with costs.

*Appeal dismissed with costs.* 20