

1981 December 21

[TRIANAFYLLIDES, P., DEMETRIADES, SAVVIDES, JJ.]

MADINA MARITIME S.A.,

Appellants.

v.

S. CH. JEROPOULOS & CO. LIMITED,

Respondents.

(Civil Appeal No. 5902).

Foreign Judgments (Reciprocal Enforcement) Law, Cap. 10—Arbitration award obtained in England and made a judgment in the High Court of Justice in England—Does not come within the definition of “judgment” in section 2 of the Law—And cannot be registered in Cyprus.

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On the strength of an arbitration award in England the High Court of Justice in England entered judgment in favour of the appellants and against the respondents. The said judgment was registered in the District Court of Limassol by the appellants, under the relevant provisions of the Foreign Judgments (Reciprocal Enforcement) Law, Cap. 10. Upon an application by the respondents for an order setting aside such registration the District Court of Limassol set aside the registration having held that “an arbitration award obtained in England and made a judgment in the High Court of Justice in England, cannot be within the ambit of the expression ‘judgment’ of the Foreign Judgments (Reciprocal Enforcement) Law, Cap. 10”. Hence this appeal.

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Held, that an arbitration award obtained in England and made a judgment in the High Court of Justice in England does not come within the definition of “judgment” in section 2 of Cap. 10; and that, therefore, the English judgment could not be registered in Cyprus under the provisions of Cap. 10; accordingly the appeal must fail.

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Appeal dismissed.

Appeal.

Appeal by applicants against the order of the District Court of Limassol (Kourris, P.D.C. and Korfiotis, D.J.) dated the 5th December, 1978 Appl. No. 191/77) whereby the registration, in the District Court of Limassol, of a judgment of the High Court of Justice in England, was set aside. 5

L. Papaphilippou with *G. Mitsides*, for the appellants.

Fr. Saveriades, for the respondents.

Cur. adv. vult.

TRIANTAFYLLIDES P. read the following judgment of the Court. 10
The appellants have challenged by means of this appeal the validity of the order of the District Court of Limassol by virtue of which there was set aside the registration, in the District Court of Limassol, of a judgment of the High Court of Justice in England which was entered in favour of the appellants and against the respondents on the strength of an arbitration award in England. 15

The said judgment was registered in the District Court of Limassol by the appellants, under the relevant provisions of the Foreign Judgments (Reciprocal Enforcement) Law, Cap. 10, but the respondents applied for an order setting aside its registration and the District Court of Limassol granted their application. 20

The basic issue which has to be determined is whether or not the English judgment in question comes within the definition of "judgment" in section 2 of Cap. 10, which reads as follows: 25

" 'judgment' means a judgment or order given or made by a Court in any civil proceedings, or a judgment or order given or made by a Court in any criminal proceedings for the payment of a sum of money in respect of compensation or damages to any injured party;". 30

The above definition is the same as the definition of "judgment" in section 11(1) of the Foreign Judgments (Reciprocal Enforcement) Act, 1933, in England.

As it appears from Dicey & Morris on The Conflict of Laws, 10th ed., vol. 2, p. 1155, and Cheshire and North on Private 35

International Law, 10th ed., p. 686, the definition of judgment in section 11(1) of the aforesaid English statute has been treated as not including, by itself, arbitration awards.

5 The District Court of Limassol in deciding that the English judgment which is involved in the present proceedings is not a "judgment" coming within the ambit of section 2 of Cap. 10 stated, *inter alia*, the following in its judgment:

10 "It seems that the provisions of the English Arbitration Act, 1950, are almost identical to the provisions of our Arbitration Law, Cap. 4. Our Arbitration Law is silent on the enforcement of foreign awards, whereas, there is an express provision in the English Arbitration Act, 1950, providing for the enforcement of foreign awards.

15 The expression of judgment in the Foreign Judgments (Reciprocal Enforcement) Law, Cap. 10 is identical to the expression of judgment under Section 11 of the Foreign Judgments (Reciprocal Enforcement) Act, 1933, and we need not repeat it. It is obvious that if an arbitration was intended to be included in the expression 'judgment', then
20 there would have been no need to make provision for the enforcement of foreign awards in England under Sections 35 and 36 of the said Act. But, we think the strongest point in favour of the allegation that an award is not included in the expression 'judgment', is that special provisions exist in England for the enforcement of foreign awards
25 after 28th July, 1924 in pursuance of an agreement for arbitration to the Protocol on Arbitration Clauses between persons subject to the jurisdiction of such Powers as may be declared by Order in Council to be parties to the convention of the execution of Foreign Arbitral Awards and
30 in any way of such territories declared to be territories to which the convention applies. The Protocol is set out in Schedule 1 of the Arbitration Act, 1950. Countries which signed and ratified the Protocol are set out under
35 para. 556 of the Halsbury's Laws of England, 4th Edn. Vol. 2 and Cyprus is not a signatory to the Protocol, and, therefore, an arbitration award obtained in England and made a judgment in the High Court of Justice in England, cannot be within the ambit of the expression 'judgment'

of the Foreign Judgments (Reciprocal Enforcement) Law,
Cap. 107.

In the light of all the foregoing, we agree with the District
Court of Limassol that the English judgment in question could
not be registered in Cyprus under the provisions of Cap. 10. 5

This appeal has, therefore, to be dismissed with costs; and
in view of the outcome of the appeal the cross-appeal has
become superfluous and it is dismissed as such.

Appeal dismissed.