

1985 June 19

[DEMETRIADES, J.]

THE CYPRUS PORT AUTHORITY,

Plaintiffs,

v.

THE SHIP "AGNES", NOW LYING AT THE PORT
OF LARNACA,*Defendants.**(Admiralty Action No. 351/84).*

Admiralty—Salvage—Legal position applicable—Risk ran by savor ship, danger to her and her crew and the time spent for the operation—Award of £2,000.

Whilst the defendant ship was at the Larnaca port, after having been abandoned by her crew and her owners, she was in danger of sinking as she was taking water. The plaintiffs, a public utility body, set up by Law 38/73, entrusted with the running and management of ports in Cyprus in order to keep her afloat, were forced on a number of occasions to pump the water out of her and incurred expenses amounting to £1,056.75; and when due to strong winds the defendant ship was dragged towards the coast and approached a dangerous zone, the tug ZENON, which belongs to the plaintiffs with her crew and barge went to her rescue. They went near the ship and they tried to approach it twice. However, because of the strong winds, they ran into risks to the life of the crew and of the tug and in order not to risk further their lives and the tug they discontinued their attempt to salvage the vessel. They stopped their efforts at about 5 o'clock in the afternoon of that day but they continued watching the ship in case the weather improved. In the meantime, the ship settled on the bottom of the sea. Later the tug MARCANTONIO VRAGADINO, which also belongs to the plaintiffs, attempted to salvage the ship. After she got to the side of the defendant ship, they cut the anchor with

an oxy-welding machine and after towing her, they berthed her within the area of the Larnaca port.

5 The value of the defendant ship was £3,000.-, she could not travel nor could she carry any loads and was scrap. During the two attempts to salvage the ship, the plaintiffs suffered the sum of £400.- as costs for banking, and wages of the crew. The value of the MARCANTONIO VRAGADINO tug was £300,000.- and the salvage operation was very risky as the tug had to manipulate in low
10 waters

In an action by the plaintiffs for £1,056.75 for services rendered to her and for £4,000.- for salvage:

15 *Held*, that considering the evidence adduced, which is accepted, the plaintiffs have incurred the expenses amounting to £1,056.75; and considering the risk which the salvor ship MARCANTONIO VRAGADINO ran during the salvage operation by her and the danger to the tug ZENON and her crew during the first attempt to salvage the ship, and the time spent for both salvage operations,
20 the plaintiffs will be awarded the sum of £2,000.- as salvage reward, in which the amount of £400.- being costs incurred by the plaintiffs for the salvage operations, is included.

25 *Judgment for plaintiffs for £3,056.75 with costs.*

Cases referred to:

Yusra Shipping Co. Ltd. v. The Ship Yamama (1985)
1 C.L.R. 328.

Admiralty Action.

30 Admiralty action for £1,056.75 cent for services rendered to the defendant ship "Agnes" for towing and/or maintenance and £4,000.- for salvage.

P. Ioannides, for the plaintiffs.

No appearance for the defendants.

35 *Cur. adv. vult.*

DEMETRIADES J. read the following judgment. By their action the plaintiffs, who are a public utility body set up by the Cyprus Ports Authority, Law, 1973 (Law 38/73), as amended by later Laws, entrusted with the running and management of ports in Cyprus, claim against the defendant ship "AGNES", now lying at the port of Larnaca- 5

(a) the sum of £1,056.75 for services rendered to her for towing and/or maintenance, and

(b) £4,000.- for salvage.

The defendants, although duly served with copy of the writ of summons, failed to enter an appearance and as a result the plaintiffs proceeded to prove their claims in their absence by calling Captain Georghios Mikellides, a Captain of the Merchant Navy, who is the Master of Larnaca port. 10 15

According to the evidence of Captain Mikellides, the ship was at the Larnaca port from the 23rd March, 1983, to the 17th December, 1984, after having been abandoned by her crew and her owners. During this period she was in danger of sinking as she was taking water. The witness, as a port Master, in order to keep her afloat, was forced, on a number of occasions, to pump the water out of her. Captain Mikellides gave particulars of the dates on which such operations were carried out and explained that had they not done this the ship would sink and it would prevent the free running of shipping. 20 25

In all, the Ports Authority claims the sum of £1,056.75 for services rendered relating to the pumping of the water out of the ship and for certain repairs carried to her.

With regard to the salvage of the ship, Captain Mikellides told the Court that at about 1.00 a.m. on the 3rd November, 1984, he was informed by the Police that the ship, due to strong winds, had been dragged towards the coast and that she had approached a dangerous zone; that after he received this information, he got on the tug ZENON, which belongs to the plaintiffs, and with her crew and a barge of the plaintiffs went to the rescue of the ship. They went near the ship and they tried to approach it twice. However, because of the strong winds, they ran 30 35

into risks to the life of the crew and of the tug and in order not to risk further their lives and the tug they discontinued their attempt to salvage the vessel. They stopped their efforts at about 5 o'clock in the afternoon of that day
5 but they continued watching the ship in case the weather improved. In the meantime, the ship settled on the bottom of the sea.

On Monday, the tug MARCANTONIO VRAGADINO, which also belongs to the plaintiffs, attempted to salvage
10 the ship. After she got to the side of the defendant ship, they cut the anchor with an oxy-welding machine and after towing her, they berthed her within the area of the Larnaca port.

According to this witness, had the ship been left where
15 she had been dragged, there was danger of her being dragged again and grounding near some hotels. If this happened the shore would have been polluted and she would be completely destroyed.

On this occasion weather conditions were good and the
20 salvage lasted between three to four hours.

The witness, who is an experienced assessor of ships and in the past had carried out assessments of ships, appraised the value of the ship, as anchored in the Larnaca port, at £3,000.-. In his opinion she cannot travel, nor can she
25 carry any loads and is now scrap.

The witness estimates that during the two attempts to salvage the ship, the plaintiffs suffered the sum of £400.- as costs for banking, wages of the crew etc. The value of the MARCANTONIO VRAGADINO tug is, according
30 to this witness, £300,000.- The salvage operation was very risky, he said, as the tug had to manipulate in low waters.

Counsel for the plaintiffs informed the Court that there is no claim by the crew of the tugs as their wages have been paid by the plaintiffs.

35 What is the legal position regarding salvage in Cyprus was very recently considered by the Court in the case of *Yusra Shipping Co. Ltd v. The "YAMAMA" and her cargo and freight*, (Admiralty Action No. 21/85, delivered on

the 28th March, 1985, but not yet reported)* and I do not propose to deal with this subject in this judgment.

Considering the evidence adduced, which I accept, I find that the plaintiffs have incurred the expenses amounting to £1,056.75. 5

Considering, now, the risk which the salvor ship MAR-CANTONIO VRAGADINO ran during the salvage operation by her and the danger to the tug ZENON and her crew during the first attempt to salvage the ship, and the time spent for both salvage operations, I have decided to award to the plaintiffs the sum of £2,000.- as salvage reward, in which the amount of £400.- being costs incurred by the plaintiffs for the salvage operations, is included. 10

In the result, there will be judgment in favour of the plaintiffs for £3,056.75 with costs. 15

Costs to be assessed by the Registrar.

*Judgment for plaintiffs
for £3,056.75 cent with
costs.*

* Now reported in (1986) 1 C.L.R. 328.