

1984 November 15

(TRIANTAFYLIDIS P L LOIZOU HADJIANASTASSIOU
DEMETRIADES SAVVIDES JJ)

LANITIS BROS LTD ,

Appellant

v

THE CENTRAL BANK OF CYPRUS.

Respondent

(Revisional Jurisdiction Appeal No 212)

Criminal Law — Criminal responsibility of a company limited — Principles applicable — Dias United Publishing Company Ltd v The Police (1982) 2 C L R 229

5 *Practice — Contempt of Court — Contempt of Court committed by chairman of appellant company (derogatory remarks in letters to the Court and attempt to influence decision made in one of such letters) — In the circumstances the contempt is attributable to the company — Stay of proceedings until the contempt is purged — Constantinides v Ekdotiki Etena Vima Ltd (1983) 1 C L R 348 adopted*

10 The reserved judgment which was unanimous was to be delivered on the 13th February 1984

15 Shortly before such delivery the chairman of the appellant company attempted in writing to influence the decision in favour of the appellant There followed a telex dated 8 2 84 by the same chairman containing warnings that there would be stirred up adverse publicity internationally in case the judgment of the Court was not fair and insinuating that the Court had in effect already taken sides against the appellant by, allegedly, having delayed for quite some time the delivery of its judgment

20 As a result the reserved judgment was not delivered on 13 2 84 There followed another letter by the chairman dated 25 4 84 containing many derogatory remarks for the Court

The Managing Director of the appellant company stated in writing that the appellant does not agree with, approve of, or condone the communications

in question of its chairman, but he did not express condemnation or regret for the action taken by the chairman of the appellant company

Held, (1) It appears that the chairman of the appellant company, who is residing abroad, is taking a very active interest in the outcome of the present appeal and that he has acted in this connection on behalf of the company and not in a private capacity

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(2) In the light of the relevant principles of law regarding criminal responsibility of a company the chairman of the appellant company has committed criminal contempt of Court on behalf of the appellant company, which is attributable to the company

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(3) In line, therefore, with the course adopted in *Constantinides v Ekdotiki Etena Vima Ltd.*, (1983) 1 C L R 348, the proceedings in this case will be stayed until the chairman of the appellant company purges to the satisfaction of this Court the contempt of Court committed by him, and through him by the appellant company

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Order accordingly

Cases referred to

Dias United Publishing Company Ltd v The Police (1982) 2 C L R 229,

Constantinides v Ekdotiki Etena Vima Ltd (1983) 1 C L R 348

Appeal.

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Appeal against the judgment of a Judge of the Supreme Court of Cyprus (A. Loizou, J.) given on the 1st June, 1979 (Revisional Jurisdiction Case No. 138/78*) whereby appellant's recourse against the decision of the respondent to treat the appellant company as being resident in Cyprus but controlled by non-residents and therefore, not being able, without the permission of the Central Bank, to borrow money from residents in Cyprus was dismissed.

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R. Johnson Q.C. with G. Polyviou and K. Michaelides, for the appellant.

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A. Evangelou, Senior Counsel of the Republic, for the respondent.

Cur. adv. vult.

TRIANAFYLLIDES P. read the following decision. After the hearing of this appeal had been completed it became necessary, in

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* Reported in (1979) 3 C.L.R. 176

view of the nature and complexity of the issues that had been raised to consider at quite some length its outcome and, eventually the reserved judgment, which was unanimous was to be delivered on the 13th February 1984

5 Then, shortly before that date there was received a letter, dated 16th January 1984, from the chairman of the board of directors of the appellant company (who is to be referred to hereinafter as the «chairman of the appellant company») That letter was, unfortunately, a thinly veiled attempt, in the form of an
10 exhortation to influence the Court to give judgment in favour of the appellant

There followed next a telex message, dated 8th February 1984 from the chairman of the appellant company containing warnings that there would be stirred up adverse publicity internationally in
15 case the judgment of the Court was not fair and in accordance with the provisions of the law, and there is to be found in such message the unacceptable insinuation that the Court had in effect already taken sides against the appellant by, allegedly, having delayed for quite some time the delivery of its judgment

20 As a result of the aforesaid letter and telex message the reserved judgment of the Court was not delivered on the 13th February 1984, when it was to be delivered, and copies of the two documents in question were forwarded to both counsel from Cyprus who had appeared for the appellant in this appeal, as well
25 as to counsel for the respondent, in order to afford to them an opportunity to submit in writing, for consideration by the Court, their views regarding the contents of such documents

Counsel for the appellant denied any prior knowledge of the contents of the said letter and telex message and we do not doubt
30 in the least their sincerity and veracity, and we record our appreciation for the way in which they expressed their disagreement with, and disapproval of, their contents and reiterated their respect for the Court, in unison with counsel for the respondent

35 Then, on the 25 April 1984, the chairman of the appellant company wrote a lengthy letter which contains many derogatory for the Court statements each one of which constitutes by itself an attempt to interfere unlawfully with the course of justice in this case and results, thus, in contempt of Court of a very aggravated nature

Copies of this letter were again forwarded to counsel for the appellant and counsel for the respondent, who were heard by this Court on the 30th October 1984.

On that date counsel appearing for the appellant stated that neither the appellant company nor its board were aware of the communications by its chairman «in his personal capacity» and consequently the appellant company disassociated itself from them. 5

It transpired during the hearing on the 30th October 1984 that, notwithstanding what had happened, the board of directors of the appellant company had not been convened to consider the position and to take any decision regarding the obnoxious conduct of its chairman. 10

There was, however, produced before the Court a statement from the managing director of the appellant company in which it was stressed that the appellant does not agree with, approve of, or condone the communications in question of the chairman of the appellant company and that he did not act on behalf of the company in this matter. 15

It is so to be noted that in the said statement of the managing director of the appellant company there is not to be found any express condemnation of the action taken by the chairman of the appellant company nor any expression of regret for his conduct. 20

From the contents of all his aforesaid communications, and, particularly, from those of his letter dated 25th April 1984, it appears that the chairman of the appellant company, who is residing abroad, is taking a very active interest in the outcome of the present Appeal and its possible impact on the affairs of the appellant company and that he has acted in this connection on behalf of the company and not in a private capacity. 25 30

In the light of the relevant principles of law regarding criminal responsibility of a company (see, inter alia, *Dias United Publishing Company Ltd. v. The Police*, (1982) 2 C.L.R. 229, as well as *Miller on Contempt of Court* (1976) p. 176) we are of the view that the chairman of the appellant company has committed criminal contempt of Court on behalf of the appellant company which is attributable to the company. 35

In line, therefore, with the course adopted by our Supreme Court in *Constantinides v. Ekdotiki Eteria Vima Ltd.*, (1983) 1

C.L.R. 348, we have decided that the proceedings in this case will be stayed and the reserved judgment will not be delivered until the chairman of the appellant company purges to the satisfaction of this Court the contempt of Court committed by him, and through
5 him by the appellant company, either by appearing for this purpose before this Court or, if he cannot come to Cyprus, in an adequate manner in writing.

Of course, if the appellant company takes any action which this Court will consider as a satisfactory way of purging the contempt
10 of Court committed in this case this Court will consider whether to revoke its order staying the proceedings and deliver its reserved judgment.

We will have no difficulty in delivering the judgment even after the impending retirement of Mr. Justice Hadjianastassiou
15 because as we have already stated, this Court has reached already a unanimous conclusion as to the outcome of this appeal.

Order accordingly.