

1989 March 24

(SAVVIDES, J.)

UNIVERSAL EXPORT AND IMPORT S.A.,

Plaintiffs,

v.

1. M/V «MAVROTISSA» FLYING THE FLAG OF CYPRUS,
THEIR OWNERS AND/OR THEIR SHIPOWNERS
2. MODEST MARITIME CO. LTD.,
3. ARGO-PACIFIC S.A. AS CHARTERERS,

Defendants.

(Admiralty Action No. 27/88).

Civil Procedure — Writ of Summons — Service — Extension of time within which it will be effected — An Application to that effect filed after expiration of one year as from the filing of the writ of summons cannot be granted — The Civil Procedure Rules, 0.4 r.1.

The principle applied by the Court sufficiently appear in the hereinabove headnote. 5

Application dismissed.

Application.

Ex-parte application by plaintiffs for extension of time to effect service. 10

Th. Thoma for A. Poetis, for applicants-plaintiffs.

SAVVIDES J. gave the following decision. Counsel for plaintiffs in the above action has filed an application for extension of time for service of the writ of summons on defendants 1 and 3 for a period of two months which was fixed for hearing today. 15

Plaintiffs' claim in the action is, according to the writ of summons, for the sum of \$700,000.- as damages for breach of contract for the transport of goods by defendant 1 ship. The action was filed on the 15th March, 1988. Service was effected on defendant 2 who entered an appearance in the action. The action 20

was adjourned for today for service on defendants 1 and 3 but so far they have not been served.

Counsel for plaintiffs filed the present application praying for an order of the Court extending the time for service on defendants 1
5 and 3 for a period of two months.

0.4, r.1 of the Civil Procedure Rules provides as follows:

«1. No writ of summons shall be in force for more than 12
months from the day of its issue including that day; but if any
defendant named in it has not been served, the plaintiff may,
10 before the 12 months expire, apply for an order to renew the
writ; and the Court, if satisfied that reasonable efforts have
been made to serve such defendant, or for other good
reasons, may order that the writ be renewed for six months
from the date of such renewal inclusive, and so from time to
15 time during the currency of the renewed writ».

The writ of summons in the present case having been filed on
15th March, 1988 and having not been served on defendants 1
and 3 has by now expired and ceased to be in force against
defendants 1 and 3 under the provisions of 0.4, r.1 once no order
20 has been made for its renewal.

In the English Rules of Court (see Annual Practice, 1960, p.92)
in the notes under 0.8, r.1 which is the rule corresponding to 0.4,
r.1 of our Civil Procedure Rules we read the following:

«If the writ is not renewed but is served after the twelve
25 months, the defendant should apply to set it aside, 0.12, r.30;
D.C.P. 267; cf. Hamp v. Warren, 12 L.J. Ex. 215».

Bearing in mind the fact that the writ of summons has expired as
against defendants 1 and 3 and once no application for its renewal
has so far been made I have come to the conclusion that the
30 application cannot be granted.

In the result the application is hereby dismissed with no order for
costs.

*Application dismissed
with no order or to costs.*