

[BELCHER, C.J., SERTSIOS AND FUAD, JJ.]

PAUL EVANGELIDES

v.

CYPRUS MINES CORPORATION

1929.
Nov. 21.EVANGELI-
DES.
v.
C.M.C.

Contract—Master and servant—Wrongful dismissal—Right in master to dismiss on 30 days' notice—Payment before action.

Appellant, an electrician, was engaged by respondent under a contract in writing which contained a clause entitling respondent to dismiss him without notice for misconduct and another independent clause providing for termination by respondent on 30 days' notice. After writing a letter to appellant which the Court held was an intimation of dismissal for misconduct, the respondent three days later purported to give him 30 days' notice under the other clause, and tendered him full salary to date of its expiry, which he received under protest. Appellant sued for damages for wrongful dismissal and for defamatory statements in the letter.

Held, that the service having been put an end to by the letter, and no misconduct being proved, the appellant was entitled to judgment, but that he could recover no damages beyond the 30 days' pay which he had received.

Appeal by plaintiff from judgment of District Court of Nicosia dismissing action (No. 733/25).

Theodotou for appellant: He was entitled to judgment for damages for libel. The District Court found there was privilege, but that defence was not pleaded.

Artemis for respondent: He has been paid all he could recover.

The judgment of the Court was delivered by the Chief Justice.

JUDGMENT:—

BELCHER, C.J.: If the second paragraph of the claim, which is damages "for the way in which plaintiff was dismissed" and for imputations on his professional skill, is to be regarded as a claim in tort for defamation we agree with the lower Court that it was successfully met by the defence of privilege: from the District Court's finding for the defendants it is to be inferred that the Court thought there was no evidence of malice, while the occasion was undoubtedly privileged.

The contract was put an end to by the letter, and the subsequent notice could have no effect; so that to the extent that the Court below failed to recognise the infringement of a right in the appellant we think its decision was erroneous: but it is well-established law that the circumstances of dismissal do not enhance damages: the measure of them is solely the value of the rights under the contract

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which the servant has lost by the master putting an end to it. In this case the proviso for a month's notice clearly limits those rights to the receipt of a month's wages, and as appellant has been paid more than that we think he should have judgment for nominal damages only, without costs as he sustained no actual loss.

Appeal allowed: judgment for respondent set aside: judgment for appellant for 1s. damages; without costs.

(ORIGINAL JURISDICTION.)

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[BELCHER, C.J., DICKINSON AND SERTSIOS, JJ.]

Re THEMISTOCLES DERVIS AND KYROS
TH. STAVRINIDES *Respondents*,
NICOSIA ELECTRIC COMPANY *Applicant*.

Contempt of Court—Pending Proceedings—Article in newspaper—Prejudice to trial—Procedure—C.C.J.O., 1927, Clauses 40 (ii), (vi) and (vii), and 221.

While a case was pending respondents published in a newspaper an article referring to the proceedings, whose natural effect would be to create in the minds of readers an animus against applicant Company.

Held, that the article was calculated to prejudice the fair trial of the proceedings and rendered the respondents liable to attachment, and that it was immaterial that to bring about such prejudice was not the object or not the primary object of the respondents.

Held also, that the proper mode of proceeding in such a case is by way of order to show cause obtained *ex parte* in first instance.

Application for writ of attachment.

Clerides, to show cause (publication having been admitted). An application for writ of attachment was served on me instead of the procedure outlined in Clause 40 of the Order being followed. I appear under protest.

There being no jury in Cyprus, what might be prejudicial to a fair trial in England is not necessarily so here, and there is nothing before this Court from which the likelihood of prejudice can be inferred. No pleadings have been ordered, nor is the case entered for trial. The Court should consider whether the publication was with a view to pending proceedings. *Re Labouchere*, 18 Times Rep. 208, and other cases cited in Annual Practice, 1929, p. 792.

N. G. Chryssafinis (with him *G. N. Chryssafinis*) to make the order absolute. My application for writ of attachment was based on precedent.