

1. MARION LERAT

2. ALBERT A. LERAT of Nicosia, *Appellants.*

v.

1. CATSELLIS HOTELS LTD.

2. ANDREAS CATSELLIS of Kyrenia, *Respondents.*

(*Civil Appeal No. 4143*)

Lien—Hotels Law (Cap. 104) s. 13—Exerciseable although guest not a traveller—Married women—Not under disability to contract—Contract Law, s. 11.

The trial Court dismissed the claim of the plaintiffs for damages or the return of their property. The plaintiffs had stayed in the hotel from May until December, 1954, and had failed to pay their bill. The defendants, hotel-keepers, detained the property of the plaintiffs who were husband and wife. Some of the property seized belonged to the wife.

Held: (i) The property of the wife was lawfully detained. Under the Contract Law, sec. 11, a wife is not under disability and the debt owed to the defendants was the joint debt of husband and wife. Nor is an hotel-keeper obliged, when husband and wife are guests, to ascertain the respective property of husband and wife.

(ii) The right to a lien under the Hotels Law (Cap. 104), s. 13, can be exercised whether or not the guest is a traveller.

Appeal dismissed.

Appeal by plaintiffs from the judgment of the District Court of Kyrenia (Action No. 459/54).

E. Essad for the appellants.

G. Clerides for the respondents.

The facts sufficiently appear in the judgment delivered by:

HALLINAN, C.J.: In this case the appellants came to stay as guests in the respondents' hotel on the 30th of May, 1954, and the respondents on the 13th December, since the appellants had repeatedly failed to pay their hotel bill, locked them out of their room and detained their belongings by virtue of their lien as a hotel-keeper under section 13 of the Hotels Law (Cap. 104). The trial Court held that the first appellant, who is the wife of the 2nd appellant, had undertaken with her husband to pay the hotel-keepers' bill and the Court also decided that, in the circumstances, the hotel keeper had lawfully detained the property of the 1st appellant.

As we understand the argument addressed to us by counsel for the appellant, he submits two grounds of

1955
Oct. 6

MARION LERAT
AND ANOTHER

v.

CATSELLIS
HOTELS LTD.
AND ANOTHER

appeal: First, that the debt was only due by the husband, the second appellant, and not by the wife and therefore her property could not be detained; and, secondly, that since both the appellants had ceased to be travellers and had become lodgers the respondents had lost their lien.

As regards the 1st ground of appeal we entirely accept the finding of the trial Court that the debt was a joint debt. We may mention that the Law in Cyprus as to a married woman's capacity to contract is different to that in England. Under the Common Law, before the Married Woman's Property Acts, a married woman could not contract but it is quite clear from the provisions of section 11 of our Contract Law (Cap. 192) that a married woman is under no such disability. That in itself would dispose of the first ground of appeal. We agree also with the trial Court that an inn-keeper on the authorities cited in Halsbury's Laws of England, Vol. 18, 2nd Ed., p. 162 (paragraph 225), is entitled to a lien not only on the property of a man who becomes a guest but also on the property of his wife who goes to stay at the hotel with him; and an inn-keeper is not bound to ascertain what is the property of the husband and what is the property of the wife.

Now, as regards the second ground of appeal, counsel for the appellants relied on the case of *Lannard v. Richard* 1897, 1 Q.B.D., p. 541, which is a case where a guest brought an action against the hotel-keeper for being turned out of the hotel. In that case there was no question of lien. Under the English Law the inn-keeper's obligation to receive guests is dependent on the guest retaining his status of traveller but there is nothing in that case to indicate that even if the guest's status ceased to be that of traveller, the hotel-keeper would necessarily lose his right of lien. In our view, whatever may be the position in English Law, on a proper interpretation of section 13 of the Hotels Law (Cap. 104), it is immaterial whether the guest is a traveller or not, provided the person whose property has been detained is a guest in the hotel.

For these reasons, this appeal must be dismissed with costs.