

1981 October 22

[TRIANTAFYLIDIS, P., L. LOIZOU, HADJIANASTASSIOU, JJ.]

THE MUNICIPALITY OF PAPHOS,

Appellant,

v.

ANDREAS KARAYIORGHIS,

Respondent.

(Criminal Appeal No. 4229).

Municipal Corporations—Municipal limits—Keeping sheep—fold within municipal limits of Paphos—Bye-law 155(1) of the Paphos Municipal Bye-laws, 1943—Municipal limits not defined by law or other public instrument—They have to be proved by evidence.

The respondent was tried at the District Court of Paphos of the offence of keeping a sheep-fold within the municipal limits of Paphos, contrary to bye-law 155(1) of the Paphos Municipal Bye-Laws; and was acquitted by the trial Judge on the ground that one of the ingredients of the offence, namely that the sheep-fold of the respondent was to be found within the municipal limits of Paphos, had not been established by the evidence adduced before him. 5 10

It was not in dispute that respondent was keeping a sheep-fold at the locality "Mouttallos"; such locality appeared on a map produced at the trial and this was the way in which it was sought to show that the sheep-fold was within the municipal limits of Paphos. No evidence was adduced to explain if, or how, the municipal limits of Paphos were shown on the said map, so as to make it possible to ascertain whether the locality in question was within the said limits. 15 20

Upon appeal by the Municipality against the above acquittal:

Held, that since there was no reference to any Law or other public instrument which defines the municipal limits of Paphos in such a manner as would render it unnecessary to require that the said municipal limits should be proved by evidence, 25

this Court is in agreement with the trial Judge that there was no evidence establishing that the sheep-fold of the respondent was being kept, at the material time, within the municipal limits of Paphos, so as to prove the commission of an offence contrary to the aforementioned bye-law 155(1); accordingly the appeal should be dismissed.

Appeal dismissed.

Appeal against acquittal.

Appeal by the Municipality of Paphos, with the sanction of the Attorney-General of the Republic, against the acquittal of Andreas Karayiorghis on the 23rd April, 1981 by the District Court of Paphos (Demetriou S.D.J.) in Criminal Case No. 3328/80 on one count of the offence of keeping a sheep-fold within the Municipal limits of Paphos contrary to bye-law 155(1) of the Paphos Municipal Bye-Laws.

K. Chrysostomides, for the appellant.

Chr. Georghiades, for the respondent.

TRIANTAFYLLIDES P. gave the following judgment of the Court. This is an appeal by the Municipality of Paphos, made with the sanction of the Attorney-General of the Republic, under section 137(1) of the Criminal Procedure Law, Cap. 155, against the acquittal of the respondent of the offence of keeping a sheep-fold within the municipal limits of Paphos, contrary to bye-law 155(1) of the Paphos Municipal Bye-Laws (see No. 42 in the Third Supplement to the Official Gazette of the Republic of February 16, 1943).

The trial Judge acquitted the respondent on the ground that one of the ingredients of the offence, namely that the sheep-fold of the respondent was to be found within the municipal limits of Paphos, had not been established by the evidence adduced before him.

It is not disputed that the respondent was keeping, at the time, a sheep-fold at the locality "Mouttallos"; such locality appears, actually, on a map, which was produced at the trial by an Inspector of the Paphos Municipality; and this was the way in which it was sought to show that the sheep-fold of the respondent is within the municipal limits of Paphos.

There was not adduced, however, any evidence to explain

if, or how, the municipal limits of Paphos are shown on the said map, so as to make it possible to ascertain whether or not the locality "Mouttalos" is within the said limits; therefore, we agree with the trial Judge that there was no evidence establishing that the sheep-fold of the respondent was being kept, at the material time, within the municipal limits of Paphos, so as to prove the commission of an offence contrary to the aforementioned bye-law 155(1). 5

We have not been referred to any Law or other public instrument which defines the municipal limits of Paphos in such a manner as would render it unnecessary to require that the said municipal limits should be proved by evidence. 10

In the circumstances, we find that this appeal fails and has to be dismissed accordingly.

In the light of all the relevant considerations we have decided not to award all the costs of the respondent against the appellant Municipality of Paphos, and so we order that counsel for the respondent should be paid by the appellant only C£20 towards his costs. 15

Appeal dismissed. Order for costs as above. 20