

1983 October 11

[HADJIANASTASSIOU, A. LOIZOU, DEMETRIADES, SAVVIDES AND
PIKIS, JJ.]

PHANOS IONIDES AND MARIA ROSSIDOU,
AS ADMINISTRATORS OF THE ESTATE OF THE
DECEASED LOIZOS ROSSIDES,

Appellants.

v.

THE REPUBLIC OF CYPRUS, THROUGH
THE COMMISSIONER OF ESTATE DUTY,

Respondent.

(*Revisional Jurisdiction Appeal No. 299*).

*Estate duty—Deductions—Debts due to a relative of the deceased
—Corroboration of the testimony of the claimant required—
Section 7 of the Evidence Law, Cap. 9.*

5 The administrators of the estate of the deceased Loizos
Rossides disputed the validity of the assessment of the value
of the estate of the deceased in one respect i.e. the non-deduction
of a sum of £6,000 accepted by the administrators as owing
to one of them, namely the wife of the deceased; and challenged
the assessment by means of a recourse.

10 The trial Judge, relying on the provisions of section 7 of the
Evidence Law, Cap. 9, which provides that claims against the
estate of deceased persons must be corroborated, concluded
that the claim of the wife against the estate was uncorroborated
and as such was not a valid charge upon the estate.

15 *Upon appeal by the administrators:*

20 *Held*, that claims against the estate of deceased persons must
be corroborated as provided in section 7 of the Evidence Law,
Cap. 9 in order to constitute a legally binding obligation of the
estate; that corroboration under section 7, as in other fields
of the law requiring corroboration, need not take the form of
evidence duplicating the testimony of the principal proponent;

that this Court is in full agreement with the trial Judge that the claim of the widow was uncorroborated and not antecedently probable; and that it was in itself vague; accordingly the appeal must be dismissed.

Appeal dismissed. 5

Cases referred to:

Georghiades v. Republic (1982) 3 C.L.R. 659;

Re Hodgson, Becket v. Ramsdale [1970] 1 All E.R. 443;

Re Cunnings (decd) [1971] 3 All E.R. 782.

Appeal. 10

Appeal against the judgment of a Judge of the Supreme Court of Cyprus (Loris, J.) given on the 15th November, 1982 (Revisional Jurisdiction Case No. 256/81)* whereby appellants' recourse against the decision of the respondent not to deduct the sum of £6,000.- from the estate of the deceased Loizos Rossides as amount representing rents collected by the deceased during his life time was dismissed. 15

L. Papaphilippou, for the appellants.

M. Photiou, for the respondent.

Cur. adv. vult. 20

HADJIANASTASSIOU, J.: We consider it unnecessary to call upon counsel for the respondent to address us. The judgment of the Court will be delivered by Pikis, J.

PIKIS, J.: The trial Court was required to review the validity of the assessment of the value of the estate of Loizos Rossides, deceased, for purposes of estate duty. The administrators of the estate, namely, Phanos Ionides and Maria Rossidou, the widow of the deceased, disputed the validity of the assessment made in one respect i.e. the non-deduction of a sum of £6,000.- accepted by the administrators as owing to one of them, namely, Maria Rossidou and the consequential levy of estate duty. 25 30

The learned trial Judge after scrutinizing every aspect of the case concluded that the claim of the wife against the estate was uncorroborated and as such not a valid charge upon the estate. Even on its face value the claim of the widow was vague and lacked persuasive force. In the end he concluded that the 35

* Reported in (1982) 3 C.L.R. 1136

decision of the Commissioner of Estate Duty was one reasonably open to him and dismissed the recourse. Relying on the decision of the Full Bench in *Lilian Georghiades v. The Republic* (1982) 3 C.L.R. 659 he pointed out that tax cases are no
5 exception to the general principles governing the exercise of revisional jurisdiction. In tax cases as well as in every other case the pertinent question is whether the decision reached was one reasonably open to the administration.

Counsel for the appellant in arguing the appeal before us
10 laid stress on the implications of the affidavit of the widow submitted to the Commissioner making liability of the estate of the deceased antecedently probable in the context of s.7 of the Evidence Law, Cap. 9. S.7 requires corroboration for the legal validation of claims against the estate of the deceased "unless
15 circumstances appear or are proved which make the claim antecedently probable, or throw the burden of disproving it on the representatives of the deceased".

The administrators in accepting the claim evidently felt unrestrained by the conflict of interest inherent in the position
20 of the widow arising from the fact that she was a creditor to the estate as well as administrator of the estate. In the submission of Mr. Papaphilippou the documentary evidence before the Commissioner consisting of a receipt and the contract of lease suggesting that for the three-year period preceding his
25 death the deceased acted as the agent of his wife respecting the lease of a flat belonging to her corroborated on the whole her claim for the recovery of the rents for the three years preceding his death in 1975 whereas they made the claim for the recovery of rents for the preceding years beginning from 1967
30 antecedently probable.

The learned trial Judge rightly took the view that section 7 of the Evidence Law as well as s. 67(b) of the Estate Duty Law 67/62 had a bearing on the claim of the widow and were relevant to the exercise of the discretionary powers of the Commissioner.
35 Section 7 lays down the law for the acceptability of claims against the estate of a deceased whereas s.67(b) makes special provision for the evaluation of claims raised against the estate by close relations. The application of the two may overlap depending

on the nature of the claim. However, we are in agreement with the learned trial Judge that logically the first question to be answered is whether the alleged obligation of the deceased constitutes a valid charge upon his estate. Therefore, the claim must be properly corroborated in the sense of s.7 of Cap. 9 before it is accepted as a valid debt of the estate. 5

Unlike England claims against the estate of deceased persons must be corroborated as provided in s.7, Cap. 9 in order to constitute a legally binding obligation of the estate. If not binding in this sense no question can arise for a deduction of the assessed value of the estate proportionate to the uncorroborated claim. In England there is no rule of law requiring corroboration of claims against the estate of deceased persons. Nevertheless Courts view with caution uncorroborated claims as a necessary precaution against advantage being taken of the eclipse of the deceased. (The position under English Law is reflected in cases such as *Re Hodgson, Beckett v. Ramsdale* [1970] 1 All E.R. 443 and *Re Cummins (decd)* [1971] 3 All E.R. 782). 10 15

Corroboration under s. 7, as in other fields of the law requiring corroboration, need not take the form of evidence duplicating the testimony of the principal proponent. It suffices if it confirms the principal evidence to the extent of eliminating the possibility of the main evidence lacking in probity or accuracy. Corroborative evidence may take a variety of forms depending on the particular circumstances of a case. Inherently probable, on the other hand, is a claim consistent with the relationship and course of affairs of the parties in the past, when the deceased was alive. 20 25

We are in full agreement with the trial Judge that the claim of the widow was uncorroborated and not antecedently probable. One may argue that given the family relationship of the parties that the opposite is correct. Equally we are in agreement with the trial Court that the claim is in itself vague. On the material before the Commissioner and the Court the claim of the widow on its face value was in the region of £5,000.- and not £6,000. Moreover there are allegations in the affidavit of the widow casting doubts on the existence of a debt as such. Somewhere in paragraph 7 it is alleged that in consideration 30 35

of receiving the rents from the lease of her flat the husband agreed to transfer to her a flat at Famagusta or, in the alternative, repay her from the moneys of his pension when he would be pensioned off.

- 5 After proper examination of every aspect of the appeal we find no merit in it and it is dismissed. Let there be no order as to costs.

*Appeal dismissed with no order
as to costs.*