

1985 May 20

[A. LOIZOU, LORIS AND STYLIANIDES, JJ.]

MELIS ANDREOU,

Appellant-Defendant,

v.

TSOULLOFTAS CONSTRUCTIONS LTD.,

Respondents-Plaintiffs.

(Civil Appeal No. 6696).

Practice—Hearing of action—Adjournment—Appeal—Principles on which Court of Appeal interferes with the exercise of discretionary powers by the trial Court.

Practice—Appeals—Piecemeal appeals—Deprecated.

5 This appeal was directed against the ruling of the trial Judge whereby an adjournment of the hearing of the action was allowed.

10 *Held*, that the Court of Appeal is particularly reluctant to interfere with the exercise of discretionary powers by the trial Court, and will not do so, except in one of three instances, that is, where the discretion is exercised upon a wrong principle, where it results in injustice, and where
15 the trial Court went wrong on a specific issue; that in the present appeal none of the above instances was established; and that, accordingly, the appeal must be dismissed.

Per curiam: Before concluding we must repeat that piecemeal appeals are deprecated both in civil and criminal cases.

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Appeal dismissed.

Cases referred to:

Republic v. Kalli, 1961 C.L.R. 266;

HjiDemetriou v. Telegraphos Publishing Co. Ltd. and Another (1983) 2 C.L.R. 268;

Christofidou v. Nemitsas and Others (1963) 2 C.L.R. 269 at p. 272.

Appeal.

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Appeal by defendant against the ruling of the District Court of Limassol (Stavrinides, D.J.) dated the 24th February, 1984 (Action No. 3820/82) whereby a short adjournment of the hearing of the case was allowed.

C. Hadjipieras, for the appellant.

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A. P. Anastasiades, for the respondents.

A. LOIZOU J.: The judgment of the Court will be delivered by Mr. Justice Loris.

LORIS J.: The present appeal is directed against the ruling of the trial Judge during the hearing of Limassol Action No. 3820/82 (S. Stavrinides D.J.), whereby an adjournment was allowed.

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Counsel on both sides had the opportunity of addressing the Court below on this specific issue and the learned trial Judge after exercising his discretion allowed a short adjournment of the hearing of the case "so that each side might take all necessary steps according to the Civil Procedure Rules in order to safeguard their interests."

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The grounds of appeal relied upon by the appellant are substantially referring to an earlier Ruling of the trial Judge on the admissibility of a document, which is not the subject-matter of the present appeal; learned counsel appearing for the appellant forcefully argued before us that the adjournment allowed might result in causing irreparable damage to his client, relying on highly hypothetical assumptions unwarranted by the record before us.

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It has been repeatedly stressed that "the Court of Appeal is particularly reluctant to interfere with the exercise of discretionary powers by the trial Court, and will not do so, except in one of three instances, that is, where the discretion is exercised-

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- (a) upon a wrong principle
- (b) where it results in injustice, and
- (c) where the trial Court went wrong on a specific issue.”

5 (*Phylactou v. Michael* (1982) 1 C.L.R. 204 at pp. 210-211).

In the present appeal none of the above instances was established; in particular we are satisfied that the short adjournment allowed by the trial Judge cannot on any view result to an injustice to the appellant causing “irreparable damage” to him as maintained by his counsel; we find no merit in the present appeal that is why we have decided not to hear learned counsel appearing for the respondent.

Before concluding we must repeat that piecemeal appeals are deprecated both in civil and criminal cases. This was stressed by our Supreme Court ever since 1961 in the case of the *Republic v. Georghios Theocli Kalli*, 1961 C.L.R. 266 and was reiterated on many occasions thereafter even recently in the case of *HjiDemetriou v. Telegraphos, Publishing Co. Ltd. and Another* (1983) 2 C.L.R. 268. The reasoning appears in the clear and plain words of the judgment of the then High Court in the case of *Pinelopi Christofidou v. Elli P. Nemitsas and 3 others* (1963) 2 C.L.R. 269 where at p. 272 the following are stated verbatim:

“In the course of a trial, or of a hearing of any proceedings before a trial Court, there may well be numerous occasions when the Court may have to make a ruling on objections or other matters raised by either side. One need not have a strong imagination to see the embarrassment which may be caused, in both civil and criminal matters, if there was to be an interruption of the proceedings for the purposes of an appeal, every time a party was dissatisfied with the Court’s ruling.”

In the result the present appeal is dismissed with costs.

*Appeal dismissed
with costs.*