

Number: 110/2003

THE SUPREME COURT

D' Civil Department

FORMED by the Judges: Dimitrios Soultanias, Vice-President, Pavlos Meidanis, Konstantinos Valmantonis, Nikolaos Kassavetis and Anargiros Platis, Judges of the Supreme Court.

ASSEMBLED in public offices at its Offices, on December 20th, 2002, at the presence of the Secretary Martha Psarafti, in order to adjudicate between:

The appellant: Athletic club under the name "HELLENIC AMATEUR KARATE FEDERATION", with registered offices in Athens and being legally represented, which was represented by its attorney at law Ioannis Karmis.

The appellees: 1. Foreign Club under the name "EUROPEAN TRADITIONAL KARATE FEDERATION", with registered offices in Milan, Italy and being legally represented, which was represented by its attorney at law Vassilios Yiannopoulos and 2. athletic Club under the name "GREEK TRADITIONAL KARATE FEDERATION", with registered offices in Athens and being legally represented, for which its Chairman, Efthimios Persidis son of Kosmas attended, a resident of Halandri, who was represented by the same as above attorney at law of his.

The judicial dispute commenced by the tierce opposition dated June 9th, 1995 of the already appellant, which was filed with the Multi Judge Athens Court of First Instance. The following decisions had been issued: 72/1996 of the same Court as above and 10.383/1996 of the Athens Court of Appeal. Following this the tierce opposition dated June 17th, 1997 of the already first appellant was filed before the

Γραφείο Μεταφράσεων Υπουργείου Εξωτερικών, Αθήνα.

Bureau des Traductions du Ministère des Affaires Etrangères
de la République Hellenique, Athenes.

Hellenic Republic, Ministry of Foreign Affairs, Translations Office, Athens.

Athens Court of Appeal, on which the decision number 3914/2000 was issued, the rebutter of which the appellant petitions by virtue of its petition dated June 27th, 2001.

At the hearing of the said petition, which was announced from the docket, the opposing parties attended as stated above. The Advocate Judge, Judge of the Supreme Court, Pavlos Meidanis, read his report dated March 15th, 2002, by virtue of which he suggested the overruling of the adjudicated rebutter petition. The attorney at law of the appellant petitioned the acceptance of the petition and the attorney at law of the appellees petitioned its overruling, and each one the conviction of the opposing party to the judicial expenditure.

HAS CONSIDERED PURSUANT WITH THE LAW

I. From the provisions of article 566 par. 1 and 577 par. 3 of the Civil Procedure Code, which also apply at the procedure of non contentious jurisdiction (article 741 of the Civil Procedure Code), there results in order the rebutter reasons to be specific by article 559 art. 1 and 19 of the Civil Procedure Code, for violation of an essential law rule and absence of legal grounds due to insufficient or contradictory justifications respectively there must, among other particulars, the acceptances to be stated in the rebutter, i.e. the actual facts which the court of essence has accepted, under which the violation of the rule of the essential law was committed at the first case, or which refer to essential matter for the course of the trial, which appears that insufficiently or contraversarily is being justified at the second case (Supreme Court's Plenary Session 32/1996). At the case in question the appellant by the first, second and third reasons of the rebutter, due to article 559 art. 1 and 19 of the Civil Procedure Code, alleges the justification that the Court of Appeal, which adjudicated and accepted

as well grounded the tierce opposition dated 6.17.1997 of the appellees for the annulment of the decision number 10383/1996 of the Multi Judge Athens Court of First Instance, violated the provisions of articles 1, 7, 13 and 14 of the Law 75/1975, of the Law 2725/1999 and of article 12 par. 1 of the Constitution, and that the decision against which the appeal has no justifications, otherwise it has insufficient and contraversary justifications, yet without stating in the rebutter the essential acceptances of the Court of Appeal. The reasons of the said rebutter being alleged, therefore, must be overruled, pursuant with all stated above, as indefinite and, consequently, as inadmissible. While the first reason of the rebutter from article 559, art. 19 of the Civil Procedure Code, by the part with which the delinquency is being alleged, i.e. that the decision against which the appeal has no justification, must be overruled as groundless, as from the said decision there results that it actually has, and an analytical one, a justification. The Court of Appeal, furthermore, has taken into consideration and overruled the allegation of the appellant being proposed, i.e. that the establishment of the second of the appellees clubs was not legal, due to absence of the number of clubs founding members pursuant with the law, which were only five (5) and not ten (10, at least. The first reason of the rebutter, therefore, must be overruled at its second part, due to article 559 ar. 8 of the Civil Procedure Code, as groundless.

II. From article 436 of the Civil Procedure Code there results that public documents constitute full evidence as far as it regards all facts stated therein, that they have been carried out by the person who has drawn them up or have been executed before it. On the other hand, pursuant with article 559 no. 12 of the Civil Procedure Code a

rebutter is being permitted in case the court has violated the stipulations of the law in regard with the power of the proof of evidence. In order the said reason for a rebutter to be specified, the content of the document must be mentioned in the rebutter and which facts their preparer certifies that have been carried out by him or before him, as for which the public document constitutes full proof. At the case in question the appellant, by the second reason of the rebutter at its first part, due to article 559 no. 12 of the Civil Procedure Code, alleges the justification that the Court of Appeal did not give a proofing power of full evidence to the public documents under registered number C/17687/6.13.1995 and C/2815/3.9.1995 of the Secretariat General for Sports being presented and alleged by it, in relation with the private documents number 36986/5.24.1995, 12773/12.27.1994 dated 7.10.97 and 2.23.1999. The said reason of the rebutter must be overruled as indefinite, as in the rebutter neither the content of the public documents is being stated, nor which facts are being certified by the Secretary General for Sports that have been carried out by him or before him.

FOR THESE REASONS

It overrules the petition of the sports club under the name "HELLENIC AMATEUR KARATE FEDERATION" for the rebutter of the decision number 3914/2000 of the Athens Court of Appeal, and

Convicts the appellant sports club to the judicial expenditure of the appellees, which it determined to one thousand sixty (1.060) Euro.

Adjudicated, decided and published in Athens on January 29th, 2003.

THE VICE-PRESIDENT

(Signature)

THE SECRETARY

(Signature)

Γραφείο Μεταφράσεων Υπουργείου Εξωτερικών, Αθήνα.

Bureau des Traductions du Ministère des Affaires Etrangères

de la République Hellenique, Athenes.

Hellenic Republic, Ministry of Foreign Affairs, Translations Office, Athens.

EXACT PHOTOCOPY

VERIFIED

Athens, MAR 06 2003

For the legal affixing of the fiscal stamps

The Secretary

and the issuance in the sequence of

(Signature & seal)

order.

Evanthia Peristeropoulou

Athens on the same day

The Secretary

(Signature & seal)

Evanthia Peristeropoulou

(Seal)

Exact copy

Athens, 4.10.2003

(Signature & seal)

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Exact translation of the ratified copy in Hellenic.

Athens, 29th April 2003

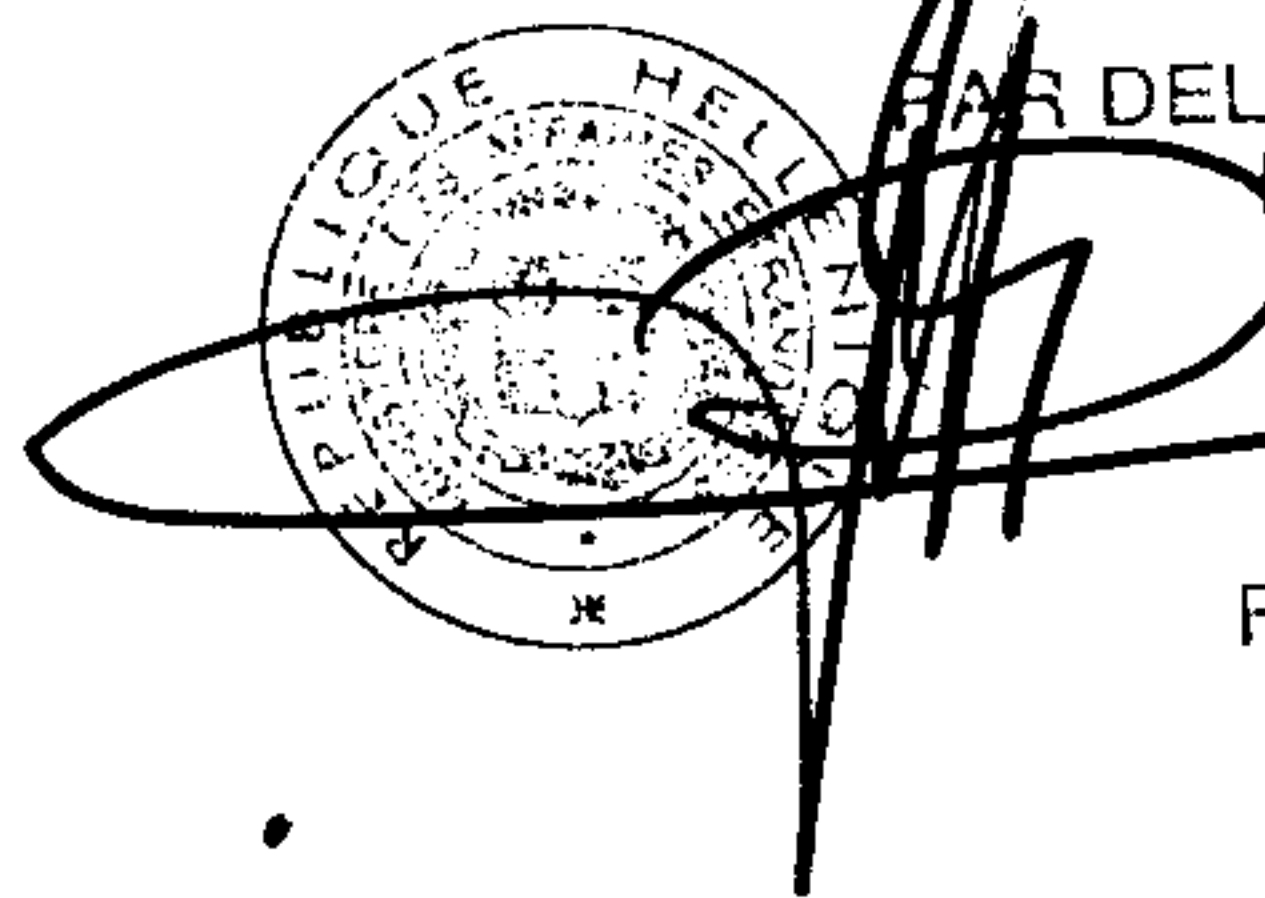
Alexander G. Tambouras

Official Translator



REPUBLIQUE HELLENIQUE
MINISTÈRE DES AFFAIRES ÉTRANGÈRES
Vu pour legalisation de la signature ci-dessus
du Traducteur du Ministère des Affaires
Étrangères ayant traduit le texte ci-annexé.

Athènes le, 29 APR 2003

 PAR DELEGATION DU MINISTRE
Le Directeur p.m.

DIMITRIOS MARINIS
FONCTIONNAIRE ADMIN.