14 ta' Dicembru, 1956

Imhallfin:

Is-S.T.O. Sir L. A. Camilleri, Kt., LL.D., President; Onor. Dr. A. J. Montanaro Gauci, C.B.E., K.M., LL.D. Onor. Dr. W. Harding, K.M., B.Litt., LL.D.

Avukat Dr. Joseph Soler ne. versus Wilfred Podestà ne.

War Damage Commission — Appell — Dekorrenza tat-Terminu

It-terminu ghall-appell minn decizjoni tal-Wur Damage Commission jihda jyhaddi minn meta dik id-decizjoni tkun finali. Decizjoni ta' dik il-Kummissjoni li biha l-istess Kummissjoni tirrifjuta li terga' tiftah u tikkunsidra l-kwistjoni ga minnha deciza qabel, minghajr ma taghti ragunijiet ghaliex tirrifjuta li tirrivedi d-decizjoni minnha mehuda qabel, u minghajr, ghalhekk, ma terga' tiftah il-kwistjoni, ma taghtix lok ghad-dekorrenza tat-terminu ghall-appell, imma dan kien beda jiddekorri mid-decizjoni precedenti. U ghaldaqstant, jekk minn meta giet moghtifa l-ewvel decizjoni sa meta sar ir-rikors tal-appell, it-terminu kien ghadda, l-appell huwa irritu u null.

Il-Qorti; — Rat ir-rikors tal-imsemmi Avukat Dr. Joseph Soler, bhala ezekutur testamentarju ta' Carmelo Calleja u, jekk ikun hemm bzonn, 1-Avukat Dr. Giovanni, Riccardo, u Maria Assunta mart Carlo Soler minnu assistita, ahwa Calleja, li, wara li qalu illi fuq il-"claim" nru.

6899/3855/43, relattiv ghall-fond No. 30 Oratory Street Senglea, il-War Damage Commission, b-ittra taghha tas-6 ta' Awissu 1956, infurmat lill-perit Barbara li ma kellhomx ta' Awissu 1956, infurmat lill-perit Barbara li ma kellhomx x'izidu wara r-risposta ga moghtija lill-Avukat Dr. Giovanni Calleja fil-11 ta' Gunju 1956, li cjoè l-Kummissjoni ma tiehux in konsiderazzjoni d-danni fil-post fuq imsemmi sussegwenti ghax-xita qawwija tal-21 ta' Ottubru 1951, u bbazat din id-decizjoni taghha fuq il-Press-Notice nru. 5 tal-1951, li kopja taghha qeghedha unita mar-rikors dok. A, peress li skond il-fehma tal-Kummissjoni l-"claim" ghal kumpens ghall-hsarat kawzati mix-xita ma kienx ammess, jekk ebda avviz ma jkun gie moghti lill-istess Kummissjoni qabel jitnehha l-perikolu mill-hsara tal-bini wara dik ix-xita; u illi l-imsemmi perit, b'ittra tieghu tat-2 ta' Lulju 1956, gustament sostna illi dak il-Press Notice jirrigwarda biss il-kumpens ghar-riparazzioni tal-perikolu imminenti. 11 biss il-kumpens ghar-riparazzjoni tal-perikolu imminenti, u biss il-kumpens ghar-riparazzjoni tal-perikolu imminenti, u ghalhekk ipprezenta "schedule of works".....; u "waqt li jaghmlu riferenza ghad-dokumenti li ježistu fil-"files" tal-War Damage Commission rigward il-"claim" nru, 6899/3855/43, talbu illi l-War Damage Commission tigi kundannata, prevja revoka tad-dečižjoni taghha tas-6 ta' Awissu 1956, li tiehu in konsiderazzjoni l-"claim" tal-esponenti ghall-kumpens ghat-tiswiia finali tad-danni kagunati mix-xita tal-21 ta' Ottubru 1951 fil-fond in kwistjoni; bligneijež kontra listesa Kummiscioni. bl-ispejjeż kontra l-istess Kummiscioni:

Omissis:

Rat ir-risposta tal-intimat Wilfred Podestà ne., li oppona li l-appell huwa null ghax maghmul barra t-terminu legali:

Omissis;

Ikkunsidrat:

Illi, kif jidher mill-ewwel paragrafu tal-parti espozittiva tar-rikors, l-appell prezenti huwa relattiv għad-deċizjoni kontenuta fl-ittra tal-War Damage Commission tas-6 ta' Awissu 1956 (fol. 20). Din 1-ittra, indirizzata lill-perit Barbara, tgħid hekk:— "With reference to your letter of the 2nd. July, 1956, relating to the tenement at no. 30,

Oratory Street, Senglea, I am instructed to inform you that there is nothing to add to the decision already communicated to Dr. Calleja, LL.D., by this office letter dated 11th June. 1956":

Kopja ta' din l-ittra tal-11 ta' Gunju 1956 tinsab ezibita fil-fol. 18 tal-process, u giet indirizzata lill-appellant Dr. Calleja. It-tenur taghha huwa dan li gej:— "With reference to your letter of the 6th. March, 1956, relating to the tenement at no. 30, Oratory Street, Senglea, I am to inform you that M.W.R. Press Notice no. 5/51 should, in the first instance, have been complied with. 2. I am instructed to add that ample time had lapsed between the appearance of the danger concerned and its removal to allow verifica-

tion by an inspection";

Qabel dik l-ittra tal-11 ta' Gunju 1956, il-War Damage Commission baghtet lill-istess Dr. Calleja ittra ohra fid-9 ta' Jannar 1956 (fol. 15), responsiva ghal dik tat-28 ta' Dicembru 1955 (fol. 14). F'din l-ahhar ittra Dr. Calleja ilmenta li kien sar jaf minn ghand il-perit tieghu li l-War Damage Commission irrufjutat li tiehu in konsiderazzjoni "a costing for making good damages sustained during the heavy rains of October 1951", u. wara li attiralhom l-attenzjoni li l-hsara kienet ghadha fl-istess stat li kienet meta grat, u li l-inkwilini setghu wkoll jikkorroboraw dan, spicca biex qal ii "it would, therefore, be appreciated if you review the case in the above light at your earliest convenience";

Ghal din I-ittra tat-28 ta' Dicembru 1955 il-War Damage Commission irrispondiet b'dik tad-9 ta' Jannar 1956 (fol. 15), fejn jinghad:— "In the circumstances obtaining, which were communicated to claimant's architect on the 28th. June. 1954, the Commission are not justified in recon-

sidering the matter";

Ikkunsidrat:

Illi mill-kompendju tal-fatti kif graw, fuq elenkati, jidher li bl-ittra tas-6 ta' Awissu 1956 (fol. 20) il-Kummissjoni ma ghamletx hag'ohra hlief infurmat lill-perit ta' l-appellant Dr. Calleja li ma kellha xejn x'iżżid "to the decision already Illi ghalhekk, mill-imsemmija data tal-11 ta' Gunju 1956 sal-5 ta' Settembru 1956, data tal-prezentata tar-rikors da parti tal-appellanti, kien skorra ż-żmien utili ghall-appell mill-imsemmija deciżjoni tal-War Damage Commission, kontenuta fl-ittra fuq indikata tal-11 ta' Gunju 1956:

Ghaldaqshekk tiddikjara irritu u null l-appell; bl-ispejjeż kontra l-appellanti.