



**Civil Court
(Family Section)**

Mr. Justice Robert G. Mangion LL.D.
Dip.Tax (MIT), P.G.Dip. Mediation (Melit.)

Today the 11th July 2017

Sworn Application No 259 / 16RGM

Number on list: 17

**Dr Larry Formosa ghan-nom u in rappresentanza ta'
l-assenti T Z B
vs
R P Q**

The Court,

Having seen the sworn application filed by plaintiff which reads as follows:

1. *Illi mir-relazzjoni li r-rikorrenti kellu ma' l-intimata R P Q, twieled il-minuri G H J fl-erbatax (11) ta' Marzu, tas-sena elfejn u tnax 2012);*
2. *Illi l-access, mantenirnent u kura u kustodja tal-minuri huma regolati permezz ta' sentenza tal-Qorti tal-Familja fir-Renju Unit u cioe` Final Order - Child Arrangements Programme (Case No. ZC15POO304) hekk kif registrat u awtorizzat mill-Qorti Civili (Sezzjoni Tal-Familja) permezz ta' digriet tal-hdax (11) ta' Gunju, tas-sena elfejn u hmistax (2015), li kopja taghha qeghda tigi hawn Pssa u mmarkata bhala 'Dok A u Dok B rispettivament';*
3. *Illi ai termini tal-klawsola numru tlieta sub-inciz ittra b' sub-inciz ittra 'xi' [3(b)(xi), l-esponenti kien ordnat ihallas is-somma ta' hames mija u hamsin Euro (€550) fix-xahar u hamsa u sittin fil-mija (65%) ta' l-ispejjez inkorsi ghas-sahha u edukazzjoni ta' l-istess minuri;*

4. *Illi huwa dejjem hallas manteniment kif gie ordnat lilu;*
5. *Illi ai terminu ta' l-istess klawnsola n-numru tlieta sub-inciz ittra 'b' subinciz ittra 'xi' 3(b)(xi), gie rizervat id-dritt li jitlob u jottjeni ir-rivizjoni u r-riduzzjoni ossija tnaqqis tal-manteniment minnu pagabbli f'kaz ta' tibdil fic-cirkostanzi;*
6. *Illi f'dawn l-ahhar xhur ivverifikaw ruhhom cirkostanzi ii jimmeritaw rivizjoni u tnaqqis tal-manteniment pagabbli mill-attur;*
7. *Illi minkejja tentattivi ghal soluzzjoni bonarja bejn il-kontenenti, din is-soluzzjoni bonarja qatt ma sehhet;*
8. *Illi kien minhabba f'hekk illi huwa kellu jaghmel dawn il-proceduri;*
9. *Illi r-rikorrenti ottjena l-awtorizzazzjoni mehtiega mill-Qorti Civili Sezzjoni tal-Familja sabiex jistitwixxi din il-kawza;*

Ghaldaqstant, in vista tal-premess, l-attur jitlob bir-rispett illi din l-Onorabbli Qorti, prevja kwalsiasi dikjarazzjoni, ordni u provvedimenti opportuni joghghobha:-

1. *Tiddeciedi u tiddikjara illi ivverifikaw, ruhhom cirkostanzi li jwasslu ghar-revizjoni u t-tnaqqis tal-manteniment pagabbli mir-rikorrenti u li r-rikorrenti huwa konsegwentement intitolat illi jitlob tali rivizjoni u tnaqqis;*
2. *Tirrivedi l-manteniment pagabbli mir-rikorrenti lili-intimata, billi tillikwida l-manteniment f'somma inferjuri tenut kont tac-cirkostanzi rilevanti tal-kontendenti u ta' binhom minuri, b'mod partikolari il-bzonnijiet tal-istess minuri, d-dhul attwali tar-rikorrenti u dak percepit minnu fid-data tal-pubblikazzjoni tal-imsemmi digriet tal-Qorti;*
3. *Tirrivedi l-percentagg pagabbli mir-rikorrenti lill-intimata ghal spejjez inkorsi ghas-sahha u edukazzjoni;*
4. *Tordna lir-rikorrenti ihallas dak l-ammont kif ridott minn dina l-Onorabbli Qorti;*
5. *Tordna li tali riduzzjoni tapplika b'mod retroattiv mid-data li giet rilokata hawn Malta l-intimata flimkien mal-minuri.*

Bl-ispejjeż kompriza dawk inkorsi fil-proceduri ta' medjazzjoni, kontra l-intimata, li minn issa hawn ingunta ghas-subizzjoni u b'rizerva ghal-kwalsiasi azzjoni ohra spettanti lill-attur.

Having seen the sworn reply filed by defendant which reads as follows:

1. *Illi fil-mertu t-talbiet attrici huma kollha infondati fil-fatt kif ukoll fil-ligi u ghandhom jigu michuda bl-ispejjes kontra l-attur nomine.*
2. *Illi l-attur nomine qiegħed jipprova jikkonvinci lil din l-Onorabbli Qorti li l-fatt li l-konvenuta rrilokat hawn Malta flimkien mal-minuri jammonta għal bdil fic-cirkostanzi, liema cirkostanzi b'xi mod jiggustifikaw it-talba tiegħu għal riduzzjoni fil-manteniment pagabbli għal bzonnijiet ta' l-istess minuri;*
3. *Illi kif jidher anke b'mod prima facie mill-Final Order innifisha mahruġa mill-Qorti tal-Familja fl-Ingliterra u kif inoltre ser jigi ppruvat permezz ta' approfondiment akbar waqt it-trattazzjoni ta' dina l-kawza, ir-rilokazzjoni tal-konvenuta ma' iben il-partijiet kien fatt ben saputa miz-zewg partijiet, tant li l-Final Order innifisha tibda billi ssemmi dan il-fatt u tkompli tellenka l-klawzoli li għandhom jidhlu fis-sehh "following the mother's relocation to Malta..." ;*
4. *Illi l-asserzjoni f'paragrafu erbgha (4) tar-rikors gurantat u cjoe li "huwa dejjem hallas manteniment kif ordnat lilu" hija gidba sfaccata. Il-verita' hi li missier il-minuri, u cjoe T Z B, ilu mix-xahar ta' Lulju 2016 jissomministra biss nofs l-ammont dovut kull xahar skond il-fuq imsemmija Final Order.*
5. *Illi l-konvenuta għamlet diversi kwereli peress li l-attur nomine naqqas milli jhallas l-manteniment kif obligat skond il-Ligi, u dan bi ksur tal-Artikolu 338(z) tal-Kodici Kriminali;*
6. *Illi Dina l-Onorabbli Qorti, permezz tad-digriet datat is-6 ta' Dicembru 2016, caħdet rikors pendente lite tal-attur nomine stante li "Ikkonsidrat li ma jeżistux l-estremi sabiex dak deciz mill-Qorti fl-Ingilterra jigi varjat b'digriet pendente lite."*
7. *Salvi eccezzjonijiet ohra.*

Havingk seen that during the court sitting of the 1st June 2017 legal counsel to the parties filed a joint note listing the terms and conditions of an agreement reached between the parties in respect of the merits of this case and requested the Court to pronounce judgment based on such agreement. Legal counsel also informed the Court that the parties were also in agreement that each party will bear his or her own judicial costs.

The joint application of the 1st June 2017 reads as follows:-

“Joint Application of R P Q and Dr Larry Formosa Noe:

Resperctfully declare :

That they wish to inform this Honourable Court that they have reached an amicable settlement;

That the applicants have agreed to vary the maintenance clauses laid down in the Final order decreed by Hon. Hughes Q.C, issued by England's Family Court and subsequently enforced here in Malta by means of a decree handed down by this Honourable Court on the 11th June 2015;

That the applicants are agreeing that clauses 3(x) and 3 (xi) shall be rendered redundant and consequently shall no longer apply since they now be replaced by the following maintenance obligations:

MAINTENANCE OBLIGATIONS:

a. The Father hereby undertakes and binds himself to pay unto the Mother, by way of maintenance to be applied towards the needs of their minor child, the sum of five hundred Euro (€500) per month with the exception of the months detailed hereunder. The maintenance contribution set out in this clause will be due on the third (3rd) day of each month and will be transferred directly in the Wife's bank account with HSBC Bank Malta p.l.c bearing account number zero zero nine one two one two four five zero zero one (009121245001);

b. For the sake of clarity and with reference to the maintenance clause (a) above, it is being agreed by the Parties that during the month of December (due to the child's Christmas holidays) and in the month where Easter happens to fall (either the month of March or April as the case may be), the Father will pay the reduced sum of two hundred and fifty euro (€250). This sum too will be due on the third (3rd) day of December, March or April as they case may be, and during these months the Husband will transfer this sum into the same bank account detailed in the preceeding clause (a).

c. The Parties further agree that no monthly maintenance will be due by the Father to the Mother during the two summer months (usually the months of July and August) where the minor child will be mostly in the Father's care.

d. With regards to the educational, medical and extra-curricular expenses of the Minor Child the Parties agree that:

- i) The Father shall pay sixty per cent (60%) of the minor child's educational expenses. For the sake of clarity, it is being agreed that these expenses include private school fees, uniforms, transport, books, stationery, outings, private lessons if necessary, 'Ordinary' and 'Advanced' Level fees (or their equivalent) and Matsec examination fees. For the sake of clarity, the Mother will be paying such expenses herself, and the Husband binds himself to reimburse the Mother within one (1) week from being presented with the relative receipts.*
- ii) With regards to the minor child's medical expense, the parties declare that the Mother at present holds a health policy covering the said minor child and the Father binds himself to pay sixty per cent (60%) of the premium relative to the minor child's cover. The Mother will continue to pay the remaining forty per cent (40%). For the sake of clarity, all doctor's fees, as well as any vaccinations the child might need will be paid by the Mother and on his part the Father binds to re-imburse the Mother within one (1) week from being presented with the relative receipt. Both Parties agree they will keep on paying their child's medical expenses, as per the terms of this clause, till their son is in full-time gainful employment;*

e. For the sake of clarity, the Parties are agreeing that in the event that any clause in the UK Final Order (rendered enforceable in Malta by means of a decree handed down by the Family Court in Malta dated 11th June 2015) conflicts with the above-mentioned maintenance clauses, it shall be the above maintenance clauses that shall apply."

Thus the applicants humbly and respectfully ask this Honourable Court to hand down a judgement wherein it is decreed that the UK Final Order shall apply in its entirety, with the exception of clauses 3(x) and 3(xi) , which shall now be superseded and replaced by the "MAINTENANCE OBLIGATIONS" clauses as detailed in this joint application filed by the applicants, thereby resolving their differences."

The Court approves the agreement reached between the parties and accordingly orders that the UK Final Order shall apply in its entirety, with the exception of clauses 3(x) and 3(xi), which shall now be superseded and replaced by the "MAINTENANCE OBLIGATIONS" clauses detailed in the joint application.

The Maintenance Obligations clauses agreed to between the parties are being approved by this Court and form an integral part of this judgment for all intents and purposes of the law.

Each party to bear his and her own respective judicial expenses.

Judge

Deputy Registrar