QORTI CIVILI PRIM`AWLA

ONOR. IMHALLEF
JOSEPH ZAMMIT MCKEON

Illum il-Hamis 24 ta` Ottubru 2019

Kawza Nru. 1
Rikors Nru. 825/2019 JZM

BNF Bank plc gja Banif Bank (Malta) plc (C 41030)

kontra

Miguel Portelli K.I. numru 224592M bhala debitur principali u Chrismarmig Company Ltd (C23992) bhala garanti in solidum flimkien u mad-debitur principali

Il-Qorti :

Rat ir-rikors guramentat prezentat bil-procedura sommarja specjali fis-27 Awwissu 2019 li jaqra hekk :–

1. Illi l-kumpanija esponenti hi bank kummercjali licenzjat taht il-Ligijiet ta` Malta biex fost l-ohrajn issellef flus lill-klijenti taghha;

2. Illi d-debitur principali hu klijent tal-kumpanija esponenti u ha minn ghandha self ghal skopijiet kummercjali;

3. Illi s-self kien jikkonsisti fis-segwenti:

a) Business Overdraft ta` ghaxart elef Euro (€10,000) koncernanti Account numru 363227 10 001 u moghti ai termini ta` Credit Agreement datat 22 ta` Lulju 2013 u kuntratt pubbliku datat 10 ta` Settembru 2013 fl-atti tan-Nutar Dr Malcolm Mangion (ara Dok. `A` u Dok. `B` rispettivament), u

b) Business Loan ta` disghin elf Euro (€90,000) koncernanti Account numru 363227 71 001 u moghti ai termini ta` Credit Agreement datat 22 ta` Lulju 2013 u kuntratt pubbliku datat 10 ta` Settembru 2013 fl-atti tan-Nutar Dr Malcolm Mangion (ara Dok. `C` u Dok. `D` rispettivament);

4. Illi d-debitur principali naqas milli jhallas lura dan is-self u konsegwentement, l-ammonti dovuti minnu huma kif gej:

a) in kwantu l-Business Overdraft, tlettax-il elf, mitejn u hamsa u ghoxrin Euro u tlieta u tmenin Centezmu (€13,225.83) dovuti fuq l-Account numru 363227 10 001 u li sal-15 ta` Lulju 2019 kienu jinkludu mghaxijiet t` erbgha u hamsin Euro u tmienja u tmenin Centezmu (€54.88) (ara Dok. `E`), u

b) in kwantu l-Business Loan, tnejn u sebghin elf u tlieta u tletin Euro u tmienja u tmenin Centezmu (€72,033.88), dovuti fuq l-Account numru 363227 71 001 u li sal-15 ta` Lulju 2019 kienu jinkludu mghaxijiet ta` hdax-il elf, hames mija u tlieta u tmenin Euro u tliet Centezmi (€11,583.03) (ara Dok. `F`);

5. Illi dawn l-ammonti saru dovuti fl-intier taghhom mid-debitur principali lill-kumpanija esponenti ai termini ta` klawsoli 12 u 9(p) tal-Credit Agreements rispettivi u markati Dok. `A` u Dok. `C` kif msemmi aktar `l fuq u dan stante li sehhew wahda jew aktar mill-events of default imsemmijin f` dawn il-Credit Agreements, partikolarment, izda mhux esklussivament:

"a. Default by the Borrower/s in the payment of any amount of principal, interest, fees, charges due for payment in the manner stipulated in the agreement regulating the Facility,

b. The Borrower/s committing any other breach of or omitting to observe any other of the obligations and undertakings as expressed to be assumed by it in the agreement regulating the Facility,

n. Any other event which in the Bank`s reasonable opinion gives grounds for belief that the Borrower/ s may not perform all or any of the obligation/s under or otherwise comply with the terms of the agreement regulating the Facility";

6. Illi in vista tas-suespost l-ammont komplessiv dovut mid-debitur principali lill-kumpanija esponenti sal-15 ta` Lulju 2019, kien ta` hamsa u tmenin elf, mitejn u disgha u hamsin Euro u wiehed u sebghin centezmu (€85,259.71);

7. Illi d-debitu soppracitat, hu wkoll dovut mill-kumpanija konvenuta Chrismarmig Company Ltd. li in virtu tal-kuntratti pubblici markati Dok. `B` u Dok. `D` msemmija aktar `l fuq, dahlet bhala garanti solidali flimkien mad-debitur principali;

8. Illi l-kumpanija esponenti ttentat tinterpella lill-konvenuti diversi drabi biex ihallsuha d-dejn, fosthom permezz ta` ittra ufficjali numru 3567/2018 prezentata fir-registru ta` din il-Qorti (ara Dok. `G`), izda dawn baqghu inadempjenti;

9. Illi l-kreditu tal-kumpanija esponenti huwa cert, likwidu u dovut u l-konvenuti m`ghandhomx eccezzjonijiet x`jaghtu f`dan ir-rigward kontra t-talbiet tal-kumpanija esponenti;

10. Illi ghalhekk jezistu l-elementi kollha rikjesti mil-Ligi a tenur tal-Artikoli 167 et sequitur tal-Kapitolu 12 tal-Ligijiet ta` Malta.

Ghaldaqstant u ghar-ragunijiet fuq premessi, l-kumpanija esponenti titlob bir-rispett lil din l-Onorabbli Qorti sabiex:

1. Taqta` u tiddeciedi din l-kawza bid-dispensa tas-smigh, ai termini tal-Artikoli 167 et sequitur tal-Kap. 12 tal-Ligijiet ta` Malta; u

2. Tiddikjara li l-konvenuti saru debituri tal-kumpanija esponenti, solidalment bejniethom, fl-ammont ta` €85,259.71; u

3. Tikkundanna lill-konvenuti jhallsu lill-kumpanija esponenti, solidalment bejniethom, l-ammont ta` €85,259.71;

Bl-ispejjez, bank charges u fees u bl-imghaxijiet mill-15 ta` Lulju 2019 sad-data tal-pagament effettiv.

Il-bank charges u fees qed jintalbu ai termini:

1. tal-Credit Agreement markat Dok. `A` u msemmi aktar `l fuq u t-Terms and Conditions (ara Dok. `H`) u t-Tariff of Charges (ara Dok. `I`) kwantu Account numru 363227 10 001; u

2. tal-Credit Agreement markat Dok. `B` u msemmi aktar `l fuq u t-Tariff of Charges (ara Dok. `J`) kwantu l-Account numru 363227 71 001.

L-imghaxijiet qed jintalbu:

1. bir-rata ta` ghaxra fil-mija (10%) fis-sena fuq l-ammont dovut fuq l-Account numru 363227 10 001 ai termini ta` klawsola 12 tal-Credit Agreement markat Dok. `A` u msemmiha aktar `l fuq;

2. bir-rata ta` ghaxra punt tnejn hamsa fil-mija (10.25%) fis-sena fuq l-ammont dovut fuq Account numru 363227 71 001 ai termini ta` klawsoli 5 u 9(p) tal-Credit Agreement markat Dok. `C` u msemmi aktar `l fuq;

Il-konvenuti huma minn issa ngunti ghas-subizzjoni u dan b`rizerva ghal kull dritt iehor spettanti lill-kumpanija esponenti fil-konfront tal-istess konvenuti.

Rat il-lista tax-xhieda u l-elenku ta` dokumenti pprezentati mar-rikors guramentat.

Rat illi l-atti tar-rikors guramentat kienu debitament notifikati lill-konvenuti skont il-ligi flimkien mal-avviz tas-smigh tal-kawza.

Rat in-nota li pprezentaw il-konvenuti fl-udjenza tal-lum li permezz taghha kienu ammessi t-talbiet attrici kif dedotti.

Ghaldaqstant, wara l-ammissjoni tal-konvenuti,

Il-Qorti qeghda taqta` u tiddeciedi din il-kawza billi -

Tilqa` l-ewwel u t-tieni talbiet.

Tilqa` t-tielet talba, bl-imghax kif mitlub.

Tikkundanna lill-konvenuti sabiex ihallsu l-ispejjez kollha ta` din il-kawza, komprizi l-bank charges u fees kif mitluba.

Onor. Joseph Zammit McKeon
Imhallef

Amanda Cassar
Deputat Registratur