QORTI ĊIVILI – PRIM'AWLA

Onor. Imħallef Dr. Giovanni M Grixti LL.M., LL.D.

Rikors Nru: 615/21 GG

William Hill PLC (04212563) u Mr Green Limited (C43260)

vs.

Jacqui Gatt (K.I 554084M)

Illum 6 ta' Lulju 2023

Il-Qorti,

Rat ir-Rikors Guramentat ta' William Hill PLC (04212563) u Mr Green Limited (C43260) ippreżentat quddiem din il-Qorti fl-24 ta' Gunju, 2021 bis-segwenti premessi u talbiet:

1. Illi, l-intimata Jacqui Gatt, kienet impjegata mas-socjeta' Mr Green Limited bhala Head of Casino permezz ta' kuntratt tal-impjieg datat 29.11.2017 imbaghad bhala Head of Gaming u dan permezz ta' *addendum* datat 01.09.2018 (vide kuntratt ta' impjieg u addendum hawn anness u mmarkat bħala "Dok WH 1");

2. Illi, separatament, l-intimata ffirmat ftehim mas-socjeta' rikorrenti, William Hill PLC, liema ftehim huwa ddatat tletin (30) ta' Jannar elfejn u dsatax (2019) (vide kopja tal-ftehim hawn anness u mmarkat bhala 'Dok WH 2');

3. Illi, skont il-ftehim hawn fuq imsemmi, l-intimata Jacqui Gatt, kellha dritt tircievi "*retention bonus*" fl-ammont ta' sitta u tletin-il elf Euro (€36,000) u dan a bazi ta' u suggett ghal numru ta' kundizzjonijiet;

4. Illi, dwar dawn il-kundizzjonijiet dan l-istess ftehim jistipula is-segwenti:

In addition, if you cease to be an employee or are under notice in the 6 calendar months following any Retention Award payment (in circumstances where this would have deprived you of your entitlement to the Retention Award if it had occurred prior to the award's payment date), you will be asked to repay an amount equal to the net of tax payment in full.

5. Illi, fil-24 ta' Jannar tas-sena 2020 l-intimata rciviet l-ammont ta' sitta u tletin-il elf Euro (€36,000) bhala *retention bonus*, kif kien patwitt bejn l-intimata u s-socjeta' rikorrenti William Hill PLC, u ftit wara, hija rrizenjat mill-impjieg taghha minn mas-socjeta' Mr. Green Limited u b'hekk l-intimata hija obbligata thallas lura ir-*retention bonus* skont il-ftehim hawn fuq imsemmi {Vide Formula ta' terminazzjoni tal-Agenzija Jobsplus hawn anness u mmarkata bhala Dok WH3);

6. Illi, wara li l-intimata rrizenjat mill-impjieg taghha, kien sar kuntatt ma' l-intimata sabiex hija thallas l-ammont dovut u effettivament l-istess intimata hallset parti minima mill-ammont dovut (vide kopja tal-*bank transfer* li sar, hawn anness u mmarkat bhala Dok WH4)

7. Illi, fl-umli opinjoni tas-socjetajiet rikorrenti m'hemm l-ebda raguni ghaliex it-tali pagament pendenti ta' wiehed u

tletin-il elf, tlitt mija u ghoxrin Euro (€31,320) m'ghandhux jithallas u dan skont il-principju ta' *Pacta Sunt Servanda* in kwantu l-kuntratt ghandu sahha ta' ligi ghal dawk li jaghmluh (Artikolu 992(1) tal-Kodici Civili).

Ghaldaqstant, ghar-ragunijiet hawn fuq suesposti u kif ser jigi ppruvat waqt il-mori tal-kawza, r-rikorrenti umilment jitlobu lil din l-Onorabbli Qorti sabiex:

1. Tiddikjara illi l-ammont ta' wiehed u tletin-il elf, tlitt mija u ghoxrin Euro (€31,320) jew somma vejuri hija dovuta mill-intimata, lis-socjeta' William Hill PLC u/jew lis-socjeta' Mr. Green Limited;

2. Tordna u tikkundanna lill intimata sabiex thallas s-somma ta' wiehed u tletin-il elf, tlitt mija u ghoxrin Euro (€31,320) jew somma vejuri lis-socjeta' William Hill PLC u/jew lis-socjeta' Mr. Green Limited.

Rat id-digriet taghha diversament preseduta tal-15 ta' Dicembru, 2021 li bih cahdet it-talba tal-konvenuta sabiex tkun awtorizzata tipprezenta nota ta' eccezzjonijiet wara li ghadda t-terminu li fih kellha tipprezenta risposta mahlufa skond il-ligi;

Rat l-atti inkluz it-traskrizzjoni tad-deposizzjoni tax-xhieda;

Ikkunsidrat:

1. Illi kif gia senjalat supra, l-konvenut tinsab fi stat ta' kontumacja wara li ddekadiet mit-terminu li fih setghet tressaq ir-risposta mahlufa taghha. Minkejja dan, u skond il-gurisprudenza in rigward, din il-Qorti hi tenuta tezamina l-atti u tasal ghad-decizjoni taghha wara tali ezami;

2. Illi ezaminati l-atti processwali jemergi mill-provi akkolti illi din il-kawza hi marbuta mal-impjieg li l-konvenuta kellha mas-socjeta' Mr. Green Limited liema socjeta' kienet sussegwentement akkwistata mis-socjeta' ko-attrici William Hill plc. Mill-affidavit ta' Roberta Geres u Kerstin Fertig, Chief Human Resources Officer u Head of Human Resources Operations rispettivament, jirrizulta illi l-konvenuta kienet impjegata mas-socjeta Mr. Green Limited mit-12 ta' Frar tas-sena 2018. F'Jannar tas-sena 2019 is-socjeta' Mr. Green Limited kienet qed tikkunsidra li timplimenta, kif fill-fatt ghamlet, sistema ta' "*retention bonuses*" bil-ghan li "*iheggu ufficjli gholja jew impjegati essenzjali biex jibqghu impjegati tas-socjeta' Mr. Green Limited*" (vide affidavit a fol 54). Il-konvenuta fil-fatt inghatat dan ir-*retention bonus* fl-ammont ta' €36,000 gross fl-24 ta' Jannar tas-sena 2020 izda tlett ijiem wara rrezenjat mill-impjieg taghha, ossia nfurmat lis-socjeta' attrici bir-rizenja taghha u ghalhekk kienet on notice sat-23 t'April 2020(vide Dok RG2 fol 59) . B'hekk kienet obligata tirrifondi dan il-bonus ghar-ragunijiet li ser isegwu skond il-ftehim minnha ffirmat fit-12 ta' Frar, 2019;

3. Skond il-ftehim ffirmat mill-konvenuta fit-12 ta' Frar, 2019 – Cash Retention Plan – Terms and Conditions li bih accettat li tinghata dan ir-*retention bonus* il-konvenuta kellha tirrrestitwixxi dan il-bonus f'kaz li tittermina l-impjieg taghha fi zmien kif jidher f'din il-klawsola li qed tkun hawn riprodotta:

4.2. Cessation of employment – Bad Leavers

If you cease to be an employee or are under notice [being notice voluntarily served by you to terminate your employment or notice of

termination for cause from William Hill] before any Retention Awara payment date and Rule 4.1 above does not apply your outstanding awards will lapse.

In addition, if you cease to be an employee or are under notice in the 6 calender months following any Retention Awara Payment [in circumstances where this would have deprived you of you entitlement to the Retention Award if it had occurred prior to the award's payment date] you will be asked to repay an amount equal to the net of tax payment in full.

4. Issa, stante li l-konvenuta tterminat l-impjieg taghha tlett ijiem wara li inghatat ir-*retention bonus*, hi kellha tirrifondi dan l-ammont lis-socjetajiet attrici izda naqqset milli taghmel dan. Mid-deposizzjonijiet msemmija *supra*, jirrizulta illi kienu saru diversi tentattivi mis-socjetajiet attrici sabiex jirkupraw l-ammont dovut izda' l-konvenuta ma kienetx f'qaghda taghmel tali rifuzjoni sakemm finalment kienet qablet li tirrifondi l-ammont b'dan illi s-socjeta attrici William Hill plc kienet kkoncediet b'mod ta' eccezzjoni li l-konvenuta thallas l-istess f'zewg rati fi Frar u Marzu tas-sena 2020. Mill-ammont dovut, il-konvenuta hallset is-somma ta' €4,680 fil-25 ta' Gunju 2020 u ghalhekk baqa' pendenti l-ammont ta' €31,320 li huwa l-ammont pretiz mis-socjetajiet attrici;

5. Illi mill-korrispondenza esebita jirrizulta korroborat dak dikjarat mix-xiehda tas-socjetajiet attrici jigifieri li ma hemm l-ebda raguni vantata mill-konvenuta ghaliex ma ghandiex tkun obligata tirrifondi l-ammont pretiz tant illi jirrizulta illi taqbel li kellu jsir hekk izda dan ma sarx minhabba ragunijiet ekonomici da parti taghha;

6. Illi mill-asjem tal-provi mressqa jirrizulta illi dak pretiz mis-socjetajiet attrici huwa debitament pruvat u li konsegwentement il-konvenuta hija moruza fil-hlas ossia restituzzjoni tal-ammont mertu tal-kawza;

Ghal dawn ir-ragunijiet taqta' u tiddeciedi billi tilqa' t-talbiet tas-socjetajiet attrici u konsegwentement:

1. **Tiddikjara illi l-ammont ta' wiehed u tletin elf, tlitt mija u ghoxrin Euro (€31,320) hija dovuta mill-intimata lis-socjeta' William Hill plc u/jew lis-socjeta' Mr. Green Limited**
2. **Tordna u tikkundanna lill-intimata thallas is-somma ta' wiehed u tletin elf, tlitt mija u ghoxrin Euro (€31,320 lis-socjeta' William Hill plc u/jew lis-socjeta' Mr Green Limited.**

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Onor. Dr. Giovanni M Grixti

Imħallef

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Nicole Cini
Ghad-Deputat Reġistratur