



THE SMALL CLAIMS TRIBUNAL

ADJUDICATOR
AVV. DR. DUNCAN BORG MYATT

Today the 21st May 2024

Claim Number 71/2022

**ANTHONY GHIO
(KI 0639348M)**

VERSUS

ANGANYOU SUNSHINE ERIN

THE TRIBUNAL,

Saw the Notice of Claim filed by the claimant on the 4th March 2022 in which plaintiff requested this Tribunal to condemn defendant to pay the amount of four thousand ninety nine Euro (Eur 4099.00), which amount was lent to defendant to pay her bills and other amenities. With legal expenses and interests.

Saw defendant's reply filed on the 5th April 2022 wherein defendant replied that the allegations brought forward by plaintiff are unfounded both in fact and in law, that any loan has to be proved and that any expense paid by the plaintiff was done on a voluntary basis.

Having seen that on the 20th May 2022, the defendant informed the Tribunal that she does not understand the Maltese language and requested the Tribunal for these proceedings to be held in the English language (fol. 9).

Having seen the affidavits.

Having seen the documents exhibited.

Having heard the witnesses.

Having seen all acts of the proceedings.

Having seen that this case was adjourned for a decision.

Facts of the Case

Before making its considerations, the Tribunal will give a summary of the evidence brought forward by both parties.

Plaintiff exhibited his affidavit wherein he states that, around four years before, he was contacted by defendant and another girl, asking him to sponsor them and help them to find an employer in Malta. He says that defendant and her friend had promised him that all the expenses would have been paid in monthly instalments.

Given that defendant's friend was denied a Visa, plaintiff states that he started sending money to defendant. Plaintiff states (Fol.12) that, *"After receiving the approval of her work permit, she said that she had no money to get her passport and had to bribe and pay Eur 500 to get her passport. This was paid by her employer (receipts 13)."* Plaintiff says that it took defendant three months to come to Malta and during this period, he kept sending her money.

Plaintiff continues by stating that the employer stopped sending money to defendant because he was losing faith in her. Hence, plaintiff kept sending money to defendant himself, *"hoping to get them returned later"*.

Eventually, defendant came to Malta and started paying monthly instalments to her employer. Following the pandemic, plaintiff paid for defendant's medical tests which were needed for the extension of the residence permit, for which plaintiff states that he does not have a receipt.

Plaintiff states that in July 2021, defendant asked him to go and live with him because she claimed that she had no money to pay for a residence. Defendant lived for 5 weeks at plaintiff's house. Following defendant's departure from plaintiff's home, the latter, through Messenger started requesting repayment for the money spent for defendant's needs.

Plaintiff says, *"Ms. Sunshinbe is claiming that we agreed that these expenses were not to be refunded. If that was the case, why did she come to my home on the 10th April 2020, set round my dinner table and tried her utmost to reduce the expenses, so much so that to conclude the dispute, I reduced some money. . ."* (Fol.13)

During the sitting of the 29th November 2022, plaintiff was cross-examined. Plaintiff states that there was a "friendly atmosphere" (Fol.42C) between defendant and himself, built over a period of two years exchanging messages. Under cross examination, plaintiff says that defendant lived with him for a period of 5 weeks.

Plaintiff's cross examination continued during the sitting of the 24th January 2023 and 28th March 2023, wherein, he states that he had asked defendant to take an oath before a Nigerian pastor to confirm that the money being sent to her would have been used for travelling expenses to come over to Malta. Plaintiff says that he always intended to get refunded for the money spent on defendant.

Asked why certain receipts exhibited by plaintiff do not have defendant's name as the receiver, plaintiff replied that probably that name is defendant's sister since defendant at that time did not possess a bank account. However, plaintiff insists that when he went through all the receipts with defendant, the latter never contested any of the expenses.

Defendant gave evidence on the 28th June 2023 wherein she stated that she had a very good relationship with plaintiff. A fol.63 A, she states that “. . .we are very good and we never had issues even do at times he always threaten me if I don't do the things that he wants me to do. . . .but then when things went wrong me and . . . the relationship then. . .good, then he started asking me to pay him all that he spends on me.”

Defendant states that she had started chatting with plaintiff to find work in Malta. However, according to defendant, these chats turned to a dating relationship – “. . . when he told me that he was to marry me, I told him that was not our agreement, and then he started threaten to . . . threatening me to get paid. To get. . .to pay him all that he spend on me.” (Fol.63B)

Defendant states that she went to live at plaintiff's place during the second pandemic lockdown upon plaintiff's insistence. However, her stay ended within two weeks. Defendant states that at Fol.63C: - “He never loaned me any money; all that he . . all that money he is claiming that I owe him was money he spent based on our relationship. I never had any agreement of any loan with him. . .”

Under cross examination, defendant insisted that plaintiff did not lend her any money and that instead, “He didn't give me. He sponsored my coming based on our relationship.”

Considerations

This case is a simple money claim whereby plaintiff is requesting that defendant pays the amount of four thousand and ninety nine Euro, representing expenses spent by plaintiff for defendant needs.

Plaintiff argues that he has given a service to defendant by finding her a sponsor and an employer. Throughout this period, plaintiff incurred expenses and paid bills on behalf of defendant. To substantiate his claim, plaintiff has exhibited several receipts and documents. However, the Tribunal notes that most of these receipts do not bear defendant's name. Plaintiff explains, during his cross examination, that part of this money was sent to other third parties because defendant did not have a bank account.

The Tribunal notes that, even if one had to believe that this money was really intended and actually sent to defendant via third parties, the crucial point to be considered is whether there was an obligation by defendant to reimburse plaintiff.

Even if plaintiff's main task were to act as an intermediary between the Maltese employer and a third country national, the Tribunal would have expected plaintiff to have in place reimbursement agreements which regulate the contractual relationship between the parties. The evidence brought forward, casts several doubts as to why plaintiff went out of his way for the defendant, to an extent that he even accepted her living with him.

The Tribunal points out that there was no agreement in place stating clearly that expenses had to be reimbursed. Furthermore, if plaintiff was acting solely as a 'middleman' to manage defendant's way to work in Malta, the Tribunal finds difficulty in understanding how plaintiff invited defendant to live at his own house.

Plaintiff himself states that, notwithstanding that the original intention was to help defendant into finding work in Malta, the continuous exchanges between them developed into a "friendship." Defendant goes a step further and states that plaintiff was seeking an intimate relationship and even asked her to get married.

The Tribunal tends to agree with defendant's arguments. Although plaintiff's initial intention was to help defendant, the friendship developed into a relationship which led plaintiff to believe that he could retrieve all the money spent on defendant at anytime he wanted, particularly if their 'friendship' went wrong, and on the other hand, defendant believed that the money being spent was all based on their relationship.

Throughout this 'relationship', whether friendship or intimate, plaintiff never stated that all the money he was spending for defendant was to be refunded back. So much so, that plaintiff states, that after the relationship with defendant broke down, he went through the expenses with defendant.

Notwithstanding the status of the relationship between plaintiff and defendant, the Tribunal points out that the main flaw in plaintiff's claim is that there was no loan or any other agreement in place regulating the money being spent. Hence, the Tribunal is of the opinion, that plaintiff cannot decide, once the friendship has ended, to list all the money spent and claim it back.

Decide

Therefore, in the light of the above, the Tribunal decides this case by rejecting plaintiff's claim and upholding defendant's plea. The costs of this case shall be paid by plaintiff.

Adv. Duncan Borg Myatt
Adjudicator

