



THE SMALL CLAIMS TRIBUNAL
EUROPEAN SMALL CLAIMS PROCEDURE

ADJUDICATOR
AVV. DR. DUNCAN BORG MYATT

Today the 27th May 2024

Claim Number 6/2022 DBM

ROMA INVESTMENTS LIMITED
(C-11924)

VERSUS

JUNKANOO SOCIETY SL

THE TRIBUNAL,

Saw the Notice of Claim filed by the claimant company on the 21st October 2022 pursuant to Regulation 861/2007 establishing a European Small Claims Procedure in which the claimant company stated that it was claiming the sum of two thousand six hundred and twenty-six Euro (Eur 2626.00) which represents the amount paid to defendant company for cycling kits which were delivered to plaintiff company not according to what was originally ordered and not according to the agreed standards. Plaintiff company is requesting defendant company to pay all legal costs and interests.

The claimant company indicated that it was not insisting on an oral hearing and did not intend attending if a hearing was held.

Saw that the defendant company was served with the Notice of Claim on the 25th November 2022 as appears from the notice of service.

Saw that the defendant filed no reply and failed to contest the claimant's claims in any way.

Read all the documentation.

Considerations of the Tribunal

The Tribunal notes that the Maltese Courts have consistently held that even in cases where defendant fails to oppose the claimant's claims, the Tribunal cannot automatically uphold claimant's claims, but must be satisfied that such claims are founded in fact and at law. The Tribunal shall therefore examine the documentation provided by the claimant.

The claimant provided the exchange of correspondence with defendant company amongst which, the invoice sent by defendant company which shows the total amount paid for the kits. In addition, plaintiff company exhibited correspondence wherein it had informed defendants with their choice of colours for the kits and subsequently their complaints when they received the kits not according to what was agreed and ordered. Notwithstanding that Mr. Ernest Taymori, on behalf of defendant company, replied that he would see to plaintiffs' complaints on the 14th April 2022, the defendants did not take any action. So much so, that on the 30th May 2022, plaintiff company requested to be paid back the full amount of Eur 2,626.00 and *"this as a consequence of the poor quality cycling shirts that you have delivered, which aside from their bad fit, have also differed from the sample which we had agreed upon."*

Furthermore, defendant company had admitted in an email sent on the 26th May 2022 that ". . . it is true that the rubber was put in white instead of black, it was a manufacturing error, and if that is a problem, we have two solutions, we can make a discount or we can change the rubber for a black one." Following this email, defendant company did not communicate with plaintiff company.

Having seen that the claimant submitted this exchange of correspondence wherein, defendant company admitted that what was delivered was not according to the order and even went further to state that they were ready to change the rubber on the kits, the Tribunal has no reason to doubt the veracity of the claimant's position and shall therefore uphold its claims.

Decision

Therefore, after having read the content of the case file and all the documentation submitted (in this case, only by the claimant), the Tribunal:-

1. Upholds claimant's claim and orders defendant to pay the claimant the sum of two thousand six hundred and twenty-six Euro (Eur 2626.00).
2. Orders defendant company to pay interest at a rate not higher than the maximum rate allowed under Maltese law, calculable from the date of the filing of this claim (21st October 2022) until the date of effective payment;
3. Orders defendant company to pay claimant the costs of this case according to the taxed bill of costs issued by the Registry.



Adv. Duncan Borg Myatt
Adjudicator