



MALTA

QORTI TAL-APPELL
(Sede Inferjuri)

ONOR. IMĦALLEF
LAWRENCE MINTOFF

Seduta tas-16 ta' Ottubru, 2024

Appell Inferjuri Numru 1/2024 LM

Dmitry Reiderman (K.I. nru. 1144178A)
(l-appellat')

vs.

Christian Borg (K.I. nru. 131549M) eżerċenti l-kummerċ
bħala Gold Car Rental Malta
(l-appellant noe')

Il-Qorti,

Preliminari

1. Dan huwa appell magħmul mill-intimat **Christian Borg (K.I. nru. 131549M) eżerċenti l-kummerċ bħala Gold Car Rental Malta** [minn issa 'l quddiem 'l-appellant noe'], mid-deċiżjoni mogħtija mit-Tribunal tal-Konsumatur [minn issa 'l quddiem 'it-Tribunal'], fit-3 ta' Jannar, 2024 [minn issa 'l quddiem

‘l-appellat’], li ddecieda t-talbiet tar-rikorrent **Dmitry Reiderman (K.I. nru. 1144178A)** [minn issa ‘l quddiem ‘id-decizjoni appellata’] fil-konfront tiegħu, kif ġej:

“For these reasons, the Tribunal upholds Plaintiff’s claims and orders defendant company to refund Plaintiff the sum of €995.00. With cost against defendant company.”

Fatti

2. Ir-rikorrent spjega li fil-21 ta’ Ottubru, 2019, il-partijiet kienu laħqu ftehim bejniethom, li permezz tiegħu huwa kien kera mingħand l-intimat noe l-vettura bin-numru ta’ registrazzjoni LQZ 147 Peugeot 3008 automatic GTI. Il-partijiet ftehm li l-vettura li kellha tinkera mir-rikorrent kellha tkun ġdida, iżda meta r-rikorrent ġabar il-vettura, huwa sab li l-vettura kellha 17,891 kilometru rreġistrat, kif ukoll numru ta’ ħsarat kozmetiċi. Qal li huwa kien sorpriż b’dan għaliex stenna li kien ser jingħata vettura ġdida. Qal li fil-korrispondenza li huwa kellu mal-intimat noe, huwa kien infurmat li l-vettura li ser jingħata kienet ġdida. Qal li minkejja li huwa ġibed l-attenzjoni dwar il-fatt li l-vettura kellha ammont ta’ kilometri rreġistrati meta mar jiġborha, huwa kien mgħaġġel bil-ħin, u għalhekk kellu jitlaq minn fuq il-post, iżda madwar siegħa wara ċempel fis-*showroom* tal-intimat noe u talab vettura aktar ġdida minn dik li ngħata, skont it-termini tal-ftehim bejn il-partijiet. Qal li jumejn wara huwa ġabar vettura oħra, numru ta’ registrazzjoni AQZ 377, tal-għamla Peugeot 3008, li minkejja li kellha anqas kilometraġġ irreġistrat, xorta waħda ma setgħetx titqies bħala vettura ġdida, u fil-fatt kellha 6,948 kilometri rreġistrati. Ir-rikorrent qal li anki

din il-vettura kellha xi ħsarat kozmetiċi, u ħsara mal-bieba li rrendiet il-bieba waħda mhux sigura, u li ma setgħetx tintuża. Qal li huwa għamel l-osservazzjonijiet tiegħu dwar dan meta mar jiġbor il-vettura, iżda r-rappreżentanta tal-Goldcar li kellmitu qaltli li huwa kellu jmur bl-ilment tiegħu fl-uffiċċju tal-intimat noe. Ir-rikorrent qal li l-mara tiegħu sofriet tbengil minħabba li l-bieba tal-vettura ma kinitx qiegħda tiffunzjona kif suppost. Qal ukoll li jumejn wara li gābar din il-vettura, tela' messagġ fuq is-sistema tal-*infotainment* tal-vettura li jaqra: "*Top-up AdBlue: Starting impossible in 750km*", li r-rikorrent qal li jindika li l-vettura ma kinitx spezzjonata qabel ingħatat lilu. Qal li huwa kien ferm diżappuntat li l-intimat noe tah t-tieni vettura li ma kinitx tilħaq l-aspettattivi legittimi tiegħu, u għalhekk huwa reġa' għal darb'oħra irritorna l-vettura fid-29 ta' Ottubru, 2019. Qal li huwa aġixxa *in bona fede* f'kull waqt, u anki ta t-tieni ċans lill-intimat noe jirrimedja l-problema. Żied jgħid li minkejja dan, l-intimat noe heddu b'azzjoni legali talli huwa ried jittermina r-relazzjoni tiegħu magħha għall-kumplament tad-durata tal-kirja. Ir-rikorrent talab lill-intimat noe jirrifondilu l-ispejjeż li laħaq ħallas għall-perijodu li matulu huwa ma kienx qiegħed juża l-vettura mikrija, jiġifieri bejn id-29 ta' Ottubru, 2019 u t-18 ta' Novembru, 2019, fejn huwa ħallas is-somma ta' €495 bħala kera tal-vettura għal dan il-perijodu, u rifużjoni tal-excess fl-ammont ta' €500, imħallas minnu fit-18 ta' Ottubru, 2019. Ir-rikorrent qal li huwa rreġistra t-tieni ilment mal-intimat noe fil-15 ta' Novembru, 2019, imma l-intimat noe baqa' ma tah l-ebda twegiba. Ir-rikorrent għalhekk istitwixxa proċeduri quddiem it-Tribunal tal-Konsumatur, fejn talab li l-intimat noe jiġi ikkundannata iħallsu l-ammont ta' €995, is-somma ta' €495 għall-kirja tal-vettura fil-perijodu li fih huwa ma kienx qiegħed jagħmel l-ebda użu minnha, u s-somma ta' €500 għall-

excess imħallas minnu. Ir-rikorrent talab ukoll li t-Tribunal jiddikjara li s-somma ta' għaxart elef, seba' mija u għoxrin Euro (€10,720) mitluba mis-soċjetà intimata rappreżentanti l-ħlas li kien dovut minnu għall-perijodu kollu tal-kirja, ma kienx dovut minnu.

3. L-intimat noe wieġeb li huwa dejjem agixxa *in bona fede*, sabiex jiġu sodisfatti l-aspettattivi legittimi tar-rikorrent, u għażel il-vettura bin-numru ta' registrazzjoni LQZ 147 wara li kkunsidra l-ispeċifikazzjonijiet tagħha, kif ukoll ta' vetturi oħra. Qal ukoll li minkejja li saru l-aħjar sforzi sabiex jiġu indirizzati l-ilmenti tar-rikorrent, u mingħajr ma r-rikorrent kellu l-ebda bażi sabiex jagħmel dan, ir-rikorrent irritorna l-vettura wara jumejn u ttermina l-kirja, u dan minkejja li l-klawsola numru 2 tal-ftehim bejn il-partijiet tagħmilha ċara li f'każ li r-relazzjoni bejn il-partijiet tiġi tterminata, mill-ewwel tiġi dovuta l-kera għall-perijodu rimanenti tal-kirja pattwita bejn il-partijiet, jiġifieri l-ammont ta' għaxart elef, seba' mija u għoxrin Euro (€10,720). L-intimat noe qal li għalhekk it-Tribunal għandu jiċċad it-talbiet tar-rikorrent, u żiedet tgħid li r-rikorrent ma jistax jitlob li l-kuntratt jiġi rexiss għaliex it-talba tiegħu ma tissodisfax ir-rekwiżiti tal-artikolu 76(2) tal-Att dwar l-Affarijiet tal-Konsumatur.

Id-Deciżjoni Appellata

4. Permezz tad-deċiżjoni mogħtija mit-Tribunal fit-3 ta' Jannar, 2024, it-Tribunal laqa' t-talbiet tar-rikorrent, filwaqt li ċaħad l-eċċezzjonijiet tal-intimat noe, u dan wara li għamel is-segwentu konsiderazzjonijiet:

“The Tribunal

Having seen plaintiff’s claim dated 21 April, 2020, requesting the Tribunal to condemn respondent to refund him the sum of €995 - €495.00 representing a pro rata amount paid to respondent for the lease of a vehicle, which vehicle was not used between 29 October 2019 and 18 November 2019 and €500.00 representing the excess; and requesting the Tribunal to declare that the sum of €10,720.00 requested by respondent is not due.

Having seen respondent’s reply dated 12 October 2020 refuting applicant’s claims as unfounded in both fact and law and requesting the Tribunal to reject the applicant’s first claim in its entirety also in view of the fact that the claim does not satisfy the requirements under Article 76(2) of the Consumer Affairs Act.

Having seen that respondent raised a preliminary plea with regard to the lack of competence of this Tribunal to decide the claim, which preliminary plea was dismissed by the Tribunal on the 9 December 2020.

Having seen the acts of the case and all documents presented by the parties.

Having heard the evidence under oath.

Considers

That given that the preliminary plea raised by defendant company has already been decided, this Tribunal will now consider the merits of plaintiff’s claim, who is essentially requesting the recovery of payments made to respondent in connection with the lease of a vehicle for a period of 18 months, from 21 October 2019 for private use. Plaintiff was to be charged a rate of €660.00 every 28 days (four weeks) in addition to an excess charge of €500.00 in case of an accident.

*According to **plaintiff**, on 21 October 2019, he collected the car, a Peugeot 3008 Automatic GTI from Goldcar offices located at Malta International Airport. Before collecting the car he was directed to Goldcar’s main office to sign the agreement and was not given an opportunity to see the car before signing the agreement. He was given the keys to the car by a Goldcar employee and as soon as he got into the car, he discovered that it had 17,891 km on its mileage reader, which indicated that the car was not new. The car also had some scratches. As soon as he started the car, an engine light flashed on the dashboard. For this reason he called Chantelle Bugeja, who told him that it was a ‘standard’ warning for Peugeot cars and did not require attention. Since he was in a hurry and had to take his children to school, he drove off, only to realise that the car had faulty brakes evidenced by the noise and vibrations*

that the car made every time he applied the brakes. Given that he had been promised a new car and given his own concerns, he called Goldcar one hour after collecting the car requesting to be given a new car with functioning brakes in the condition promised. Goldcar agreed to provide a new car.

The second car was collected by plaintiff's wife, two days later, on the 23 October 2019. The car, also a Peugeot 3008 had lower mileage, but was not brand new. In fact the mileage was 6,948 km and had some cosmetic damage, in addition to a damaged door which did not stay in position when opened, so much so that his wife's leg was slammed by the door, resulting in a huge bruise. Two days after collecting the second car, claimant states that he was alarmed to discover a message on the car's infotainment system "Top-up AdBlue: starting impossible in 750km." The second car was returned on the 29 October 2019, terminating the relationship with the car-hire company.

Subsequently, a complaint was lodged by Michelle Grech Bonnett on claimant's behalf, requesting a refund for the days when the vehicle was not used – i.e. 29 October to 18 November 2018, amounting to the sum of €495.00 in the aggregate in addition to the excess deposit of €500.00.

Plaintiff states that although the cars were not up to scratch and not what was agreed upon, he did not expect to receive a refund for the days when these were in his possession. Following Goldcar's refusal to refund the money, another complaint was filed on 15 November 2019 by registered mail, which remained unclaimed by Goldcar and was returned to sender. Following Goldcar's unwillingness to communicate with MCCA, these proceedings were filed. Claimant also expressed disappointment at the audacity of defendant company, who filed a precautionary garnishee order against claimant, for payment of outstanding fees, when it was they who did not fulfil their obligations at law.

Michelle Grech Bonnett, also testified in these proceedings by means of a sworn affidavit. Grech Bonnett, a finance manager who works with the claimant at Aspire Global International Limited was looking after the payments for the lease of the car, since this was to be paid by the company in line with claimant's remuneration package. The duration of the lease for a new Peugeot 3008 was to be for a period of 18 months and Grech Bonnett paid the deposit and the first month's rent on the 21 October 2019. When claimant started having problems, claimant asked her to get in touch with Chantelle Bugeja to explain that the car provided was far from new in the hope of reaching an amicable solution. However Bugeja insisted that the lease had to be paid in full, for the entire 17 months and on various occasions Bugeja was rude,

unprofessional, would even hang up the phone when she called and also threatened legal action.

Natalija Reiderman, claimant's wife, also testified in these proceedings by means of a sworn affidavit. She confirmed that according to the lease agreement she was listed as 'an additional driver' and said that after her husband collected the car on the 21 October 2019, she was surprised at the quality of the car. The car was not new, had faulty brakes which was worrying and flashed an engine warning. In fact the car was replaced with a second hand car, which she herself picked up on the 23 October, which had low mileage, cosmetic damage and a damaged door which would not hold in place, so much so that her leg got caught in the door and bruised her. She expressed concern at the fact that the car which was defective could have been potentially dangerous and could have injured their young children.

That **Chantelle Bugeja**, Operations Manager on behalf of defendant company, also testified in these proceedings. She confirmed that her first point of contact was with Michelle Grech Bonett who was requesting the lease of a vehicle long term for one of their employees. Bonett made a request for a car and a Peugeot 3008 was agreed on. Bugeja contends that a new vehicle was provided (as opposed to a brand new vehicle), but insists that at no point did Bonett specify that the vehicle had to be brand new. Following the exchange with Bonett, Bugeja also spoke to plaintiff and offered him a brand new vehicle, which was eventually declined by him. Bugeja offered plaintiff a Peugeot GT at the same rate as a standard model as she didn't have a standard model available. Plaintiff came to the office to sign the contract and made his way to the parking lot to pick up vehicle. He kept the vehicle for two days. His primary complaint was about the mileage and Bugeja assured him that on the 23 October she could provide him with a newer 3008 Peugeot which was registered in March 2019 and was 7 months old, which in rental terms is considered 'new'. The second car was collected by plaintiff's wife and the day after plaintiff contacted him to say that his wife was very happy with the car since the car had lower mileage. However there was a complaint about a door, since the stopper had come off and on the same day of the complaint a Goldcar employee went to the location of the client and fixed the stopper and resolved the issue. There was another complaint when a warning light flashed on the screen, which indicated that the vehicle needed to be topped up with a fluid. Bugeja says that although this fluid is not something that the rental company should provide, to keep the peace she offered to send an employee with the fluid, however plaintiff declined the offer and wanted to terminate the contract. Despite offering several other car replacements, these were all declined by plaintiff and the second vehicle was returned on 29 October. Questioned in cross examination about the AD-

Blue top up fuel, Bugeja stated that when the warning appears, it allows you sufficient time to get to the nearest petrol station. In this case (Doc. G) the plaintiff could drive for 750 km before the vehicle would shut down. She explained that AD-Blue is an additive for Diesel engines to run smoother.

Considers

That the lease agreement in question refers to Peugeot 3008 automatic GTI for a period of 18 months, for a fixed monthly payment of €660.00, payable every 28 days. (Doc. A). According to clause 2, should the client return the vehicle before the end of the lease agreement, the client is to pay Goldcar Malta for the remaining months.

According to clause 5, a five hundred Euro excess deposit is also due in case of an incident, which will become due in the event of damage or accident.

To this end, scrapes, dents and any damages must be reported and broken or lost keys, errors in refuelling and special cleaning of the interior will also be charged. The full deposit is to be refunded after vehicle is returned if there are no pending fines or claims to be paid. (Doc. B)

Given that the vehicle was indeed returned to the defendant company and that no counter-claim was filed by Goldcar, and having considered the documents and circumstances surrounding the case, the Tribunal is satisfied that any scrapes, dents and damages were not occasioned by plaintiff and therefore finds no reason why the excess deposit is being retained by defendant company. The contract itself in clause 2, pronounces itself only on the monthly payment and does not refer to the excess deposit, which, according to Doc B is to be refunded after the vehicle is returned.

Considers

That although the contract in question does not refer to a 'new' vehicle, from correspondence exchanged prior to the signing of the lease, Chantelle Bugeja, Operations Manager at Goldcar Malta, offered plaintiff the choice of a new Peugeot 3008 automatic or a new Peugeot 3008 GTI Sport with manual transmission at a rate of €660.00 or €560.00 every 28 days, depending on the duration of the lease agreement.

Plaintiff initially opted for the latter – ie. The new Peugeot 3008 GTI, at a monthly rate of €660.00 and the agreement was entered into on the 21 October, whereupon plaintiff paid the sum of €1160.00 (Doc. B). Once the car was collected, plaintiff was disappointed to note that contrary to his legitimate expectations, the car was not in fact new but had clocked up a substantial number of mileage – 17,891 km and

moreover, had a number of cosmetic damages. Plaintiff therefore requested that the car be changed to a car in a better condition, which request was entertained. Two days later, on the 23 October, a new car was provided, which was still not 'new' but had a lower mileage – 6,948 km. The second car also had cosmetic damages and a damaged door rendering it unsafe and unfit for purpose, which fault was reported to defendant company, which fault was also addressed. Upon collecting the vehicle again, the plaintiff was alarmed to discover a sign on the car's infotainment system indicating that a top-up fuel additive was necessary otherwise the car would not start. The vehicle was once again returned to defendant company and plaintiff was offered another replacement vehicle, which he turned down, effectively terminating the lease agreement.

Considers

That by means of this action, plaintiff is requesting the refund of the sum of €495.00 being a refund of the amount paid for the days when the car was not used (29th October to 18 November), in addition to the excess deposit of €500.00. Plaintiff also requested this Tribunal to declare that the amount of 10,720 Euro for the remaining months of the contract, is not due.

The Tribunal has already pronounced itself on the question of the 'excess' and will now consider the dissolution of the contract, which is in effect what the plaintiff is requesting.

Plaintiff is basing this claim on the fact that the trader did not deliver what was legitimately expected, not once, but twice.

That defendant is refuting plaintiff's claims as unfounded in fact and at law. Given that the company offered various options and remedies and went above and beyond what was expected and offered a remedy, in the circumstances, plaintiff had no right to rescind the contract. Defendant company further contends that according to Art. 76(2) of the Consumer Affairs Act, the consumer shall not be entitled to terminate the contract, if the lack of conformity is minor.

Considers

That, first of all, the Tribunal notes that every contract contains an implied duty of good faith and fair dealing. In this case, when dealing with plaintiff, defendant company should have made the distinction between 'new' and 'brand new' clear, at the outset, before the plaintiff signed the lease agreement.

Even if the Tribunal were to agree with defendant company that a car with 6,000 km might be considered 'new' in the car-rental business, when it comes to a contract

which is binding on plaintiff for an eighteen month duration, everything should be expressly stated and all cards put on the negotiating table. Which was certainly not the case here. Bugeja had plenty of opportunities to make this known and in the email dated 8 October, Bugeja should have pointed out that the cars, although 'new' were not in fact brand new and had been used before. Car mileage should also have been indicated.

Now, although one can possibly argue that Plaintiff may indeed have accepted the situation when he agreed on the second vehicle, despite knowing that the car had clocked up some mileage, the fact remains that Plaintiff was still well within the rights to expect that the car provided would not be 'damaged' in any shape or form. Which was clearly not the case. The car door was in fact damaged and had to be fixed. Moreover, the add-blue sign which appeared on the dashboard, would certainly not have appeared if the car was brand-new. Considering the onerous terms of the lease agreement and the fact that errors in refuelling are at the charge of plaintiff, these are not risks or responsibilities which the Plaintiff should have had to assume and once again the Tribunal feels that this was a shortfall by defendant company.

That although the defendant company is arguing that the car it provided was 'new', it can't deny that the cars in question were both scratched and had other issues. Conversely, the Tribunal is satisfied that a brand new car would not have any damage, scratches or other issues and would not have posed any problems to plaintiff.

That from the email exchange dated October 25, it seems that Plaintiff wanted a car which was brand new or 'as new as possible' – one with no issues, no scratches, no door issues. In her reply, Bugeja reiterates her position, that the cars she provided were in fact 'new' but that a brand new car would envisage an increase in price.

Given that defendant company could only offer a brand new car at an additional cost, in the circumstances, the Tribunal feels that Plaintiff was well within his rights to terminate the lease agreement.

For these reasons, the Tribunal upholds Plaintiff's claims and orders defendant company to refund Plaintiff the sum of €995.00. with cost against defendant company."

L-Appell

5. Fir-rikors tal-appell imressaq fit-23 ta' Jannar, 2024, l-appellant noe talab lil din il-Qorti jogħgobha tirrevoka d-deċiżjoni appellata, bil-konsegwenza li

tgħaddi biex tiċhad it-talbiet tal-appellat, bl-ispejjeż taż-żewġ istanzi kontra tiegħu.

6. L-appellant noe qal li permezz ta' email tat-8 ta' Ottubru, 2019, l-appellat talab li jikri vettura għall-użu tiegħu, imma l-ħlas għall-kiri tal-vettura kellu jsir minn Aspire Global. Qal li l-appellat talab li jikri vettura għal perijodu ta' sena u nofs, u indika bħala vettura preferuta, vettura tal-għamla Peugeot 3008, Hyundai Tucson jew Ford Kuga. Qal li Chantelle Bugeja wiegħbet għan-nom tiegħu fit-8 ta' Ottubru, 2019, fejn tat id-dettalji ta' żewġ mudelli ta' vettura tal-għamla Peugeot 3008, u fil-korrispondenza tagħha indikat li dawn kienu godda. Qal ukoll li l-appellat kien interessat li jikri l-vettura għal tmintax-il xahar. Qal ukoll li fil-21 ta' Ottubru, 2019, kien gie ffirmat ftehim għall-kiri ta' vettura tal-għamla Peugeot 3008 bin-numru ta' registrazzjoni LQZ 147, fejn l-appellat aċċetta din il-vettura wara li kien spezzjonaha fix-*showroom* tal-appellant noe. Qal li wara jumejn li kien ilu juża din il-vettura, l-appellat ilmenta li l-*mileage* kien għoli. Qal ukoll li dan l-ilment sar minkejja li l-appellat kien aċċetta l-vettura kif offruta lilu, u wara li kien ingħata ħin biex jispezzjonaha. L-appellant noe qal li l-vettura giet mibdula fit-23 ta' Ottubru, 2019, u l-appellat aċċetta vettura li wkoll kienet tal-għamla Peugeot 3008, bin-numru ta' registrazzjoni AQZ 377. L-appellat kien bagħat *email* lis-soċjetà appellanta fejn indika li kien sodisfatt bil-bidla fil-vettura, u li din kienet tinħass li kienet aktar għdida minn dik li kellu qabel. L-appellant noe qal li din it-tieni vettura kellha anqas mili, u fil-fatt kienet giet registrata għall-ewwel darba f'it tax-xhur biss qabel ingabret mill-appellat. L-appellant noe qal li wara jumejn jagħmel użu minn din il-vettura, l-appellat bagħat *email* oħra, fejn din id-darba indika li *'the driver's door is missing a*

stopper mechanism'. L-appellant noe qal li din il-kwistjoni giet solvuta immedjatament minn impjegat tiegħu stess, ċertu Jesmael Catania, li waħħal tapp tal-gomma mal-bieba tal-vettura mikrija lill-appellat. Qal li wara dan, l-appellat ikkomunika b'ilment ieħor, din id-darba relatat mal-*AdBlue fuel* li kellu jingħata lill-vettura. Qal li dan huwa tip ta' addittiv li jista' jinxtara minn kwalunkwe *petrol station*, u li permezz tiegħu magni *diesel* jaħdmu b'mod aktar effiċjenti. Qal ukoll li abbażi ta' dan, l-appellat iddeċieda li jirritorna l-vettura.

7. L-appellant noe qal li huwa ħassu aggravat għaliex it-Tribunal fid-deċiżjoni appellata mar kontra l-principji ta' ġustizzja naturali, meta qal li l-vettura pprovduta kienet iddannegġjata, meta dan ma kienx minnu u lanqas ma jirriżulta mill-provi, u t-Tribunal skarta l-fatt li l-appellat kien qal li kien jinsab sodisfatt bit-tieni vettura pprovduta mill-appellant noe, u l-fatt li l-appellat kien qajjem l-ilment tiegħu wara li kien għamel użu mill-vettura. L-appellant noe qal li t-tieni vettura kellha anqas *mileage*, kif wara kollox xtaq l-appellat, b'*mileage* ta' anqas minn 7,000 km. Qal li l-appellat ikkomunika miegħu, fejn kien pożittiv dwar it-tieni vettura, u faħħar il-kwalitajiet tagħha. L-appellant noe qal li għalhekk il-konsiderazzjoni tat-Tribunal li l-vettura kienet *damaged*, hija konsiderazzjoni ingusta in kwantu bbażata fuq assunzjoni, għaliex oġġettivament minn imkien ma jirriżulta li dan kien il-każ, u l-uniku ilment li jista' jingħad li kien hemm fir-rigward tal-vettura kien minħabba l-*istopper* mal-bieba tal-passiġġier, u dan l-ilment gie kkomunikat biss wara li l-appellat kien għamel użu mill-istess vettura, u wara li l-istess appellat kien diġà esprima s-sodisfazzjon tiegħu fir-rigward tal-vettura. Qal li anki l-konsiderazzjoni dwar l-ADBlue Filter hija skorretta u ingusta, għaliex it-Tribunal qies li ladarba l-vettura kienet nieqsa

mill-*AdBlue*, dan kien ifisser li l-vettura kienet *damaged*. L-appellant qal li dan is-sinjtal li deher, bl-ebda mod ma kien ifisser li kien hemm xi ħsara fil-vettura, u l-konsiderazzjoni li l-vettura għandha bżonn l-*AdBlue fuel* jew li għandha *AdBlue fuel* baxx, ma jfissirx li hi *damaged*. L-appellant noe qal li mhux minnu li l-vettura kellha xi ħsara, u din il-vettura kienet għadha kif ħarġet fit-triq, kif jirriżulta mil-*logbook* esebit. Qal li din il-vettura kienet tissodisfa l-aspettattiva tal-appellat li jingħata vettura ġdida. Qal li l-vettura ma kellha l-ebda difett moħbi, u l-uniku difett li kellha kien li wara jumejn ta' sewqan, inqala' l-istopper tal-bieba tal-passigġier, liema difett gie rizolt. L-appellant noe qal li għalhekk il-konklużjoni tat-Tribunal li l-vettura kienet *damaged*, hija nieqsa mir-raġunijiet li jissostanzjaw l-istess deċiżjoni, u dan għaliex apparti l-fatt li t-Tribunal kien selettiv fl-evidenza li għażel biex jibbaża fuqha d-deċiżjoni tiegħu, minn imkien ma jirriżulta kif it-Tribunal wasal għall-konklużjoni li l-vettura kienet *damaged*. Qal li minn eżami tad-deċiżjoni appellata, għalkemm jidher li t-Tribunal semma punti ta' divergenza bejn il-partijiet, ma jispjegax kif il-vettura pprovduta lill-appellat kienet waħda dannegġjata. Qal ukoll li f'ċirkostanzi fejn hemm lok għal tiswija, l-oġġett ma jistax jitqies li huwa difettuż. L-appellant noe qal li għalhekk għandu jirriżulta li l-mod kif saru l-konsiderazzjonijiet mit-Tribunal imur kontra l-prinċipji ta' ġustizzja naturali, in kwantu d-deċiżjoni appellata teskludi ingustament l-provi u anke l-argumenti miġjuba minnu.

8. Fit-tieni aggravju tiegħu, l-appellant noe jgħid li t-Tribunal mar kontra l-prinċipji ta' ġustizzja naturali meta laqa' t-tieni talba tal-appellat b'tali mod li ddikjara li s-somma ta' €10,720 mitluba mingħand l-appellat, u li hija l-mertu ta' proċeduri separati quddiem il-Qorti tal-Maġistrati (Malta), mhumiex dovuti lill-

appellant noe. L-appellat qal li t-Tribunal mar oltre l-limiti tal-kompetenzi tiegħu b'din il-parti tad-deċiżjoni, u din il-kwistjoni tinsab pendentem quddiem il-Qorti tal-Maġistrati (Malta) fil-proċeduri fl-ismijiet **Christian Borg noe vs. Aspire Global International Limited et** (Ref. 82/820 VGA). Qal li t-Tribunal ippronunzja ruħhu dwar kwistjoni kuntrattwali bejn il-partijiet, liema kuntratt jinsab taħt skrutinju, li għadu pendentem quddiem Qorti oħra, kif ukoll inoltra ruħhu dwar kuntratt li għandu valur oltre l-limiti tal-kompetenza tiegħu, jiġifieri kuntratt li l-valur tiegħu jeċċedi s-somma ta' €11,000, u dan meta l-kompetenza tat-Tribunal ma teċċedix l-valur ta' €10,000 a tenur tal-artikolu 20 tal-Kap. 378. L-appellant noe qal li lanqas proċeduralment, it-Tribunal ma setax jippronunzja ruħhu fuq il-mertu tal-kuntratt bejn il-partijiet, u jilqa' t-talba tal-appellat u jiddikjara li s-somma ta' €10,720 mhijiex dovuta, u dan għal żewġ raġunijiet ulterjuri. Qal li t-talba tiegħu għall-ħlas ta' €10,720 fil-konfront tal-appellat, ma kinitx talba li saret quddiem it-Tribunal, iżda kienet talba li saret fi proċeduri separati quddiem qorti oħra, u għalhekk it-Tribunal ma kienx kompetenti li jiddeċiedi dwar din il-kwistjoni, għaliex din it-talba ma ngābitx quddiemu. Qal ukoll li l-kwistjoni dwar jekk it-talba ta' €10,720 hijiex dovuta, tesigi li jkun hemm talba fejn qabel xejn jiġi dikjarat li l-ftehim bejn il-partijiet huwa rexiss, iżda tali talba ma saritx mill-appellat, u għalhekk it-Tribunal ma kellux il-kompetenza li jagħmel dikjarazzjoni f'dan ir-rigward.

Ir-Risposta tal-Appell

9. L-appellat fir-risposta tiegħu qal li d-deċiżjoni appellata hija ġusta u timmerita konferma, u l-appell intavolat mill-appellant noe huwa fieragħ u vessatorju. Qal li huwa kien daħal fi ftehim bil-miktub mal-appellant noe sabiex

jikri vettura ġdida, tant hu hekk li fil-korrispondenza bejn il-partijiet din hija deskritta bħala 'new'. Qal li l-appellant krielu vettura tal-għamla Peugeot 3008 bin-numru ta' registrazzjoni LQZ 147, li suppost kienet ġdida, għal perijodu ta' tmintax-il xahar, skont il-ftehim ta' kiri tal-21 ta' Ottubru, 2019, u mal-iffirmar tal-kuntratt huwa ħallas lill-appellant noe *initial fee* ekwivalenti għal kirja ta' erba' ġimgħat (€660) u s-somma ta' ħames mitt Euro (€500) bħala *damage excess deposit*. Qal li meta fil-21 ta' Ottubru, 2019, huwa mar jiġbor il-vettura li suppost li kienet ġdida, kien sorpriż meta sab li din il-vettura ma kienet ġdida xejn, iżda kienet diġà għamlet 17,891-il kilometru, u meta saq il-vettura sab li kellha l-ħsara fil-brejkijiet, u din hija ħsara li tista' tirriżulta f'periklu kemm għas-sewwieq, kif ukoll għall-passiġġieri u għan-nies tal-madwar. Qal li wara siegħa biss li kien ilu li ħa l-vettura, huwa ċempel lil Chantelle Bugeja, impjegata tal-appellant noe, u infurmaha bin-nuqqasijiet li sab fil-karozza, u l-partijiet qablu li huwa kellu jingħata karozza oħra minflok. Qal li l-karozza l-oħra li ngħata kienet tal-istess mudell, jiġifieri Peugeot 3008, bin-numru ta' registrazzjoni AQZ 377. Qal li fit-23 ta' Ottubru, 2019, martu marret l-uffiċċju tal-appellant noe sabiex tingħata t-tieni vettura, iżda rriżulta li din it-tieni vettura mhux talli diġà kellha aktar minn 6,948 kilometru, iżda kellha wkoll ħsara fil-bieba tas-sewwieq, liema ħsara kkaġunat tbengil lill-mara tiegħu. Qal li jumejn wara li l-mara tiegħu ħadet din il-vettura, li suppost li kellha tkun 'ġdida', beda jitla' messagġ fuq id-*dashboard* tal-vettura li kien jaqra: '*Top-up AdBlue: Starting impossible in 750 km*', li effettivament kien ifisser li l-vettura kienet ser tieqaf taħdem jekk ma tingħatax *top-up* tal-*AdBlue*. Qal li fix-xhieda tagħha, Chantelle Bugeja stqarret li dan il-messagġ jitla' wara li l-vettura tkun għamlet madwar 20,000 kilometru, iżda li f'dak l-istadju l-*odometer* tal-vettura kien qed jindika 6,498 kilometru, u

allura staqsa jekk l-*odometer* kienx bil-ħsara wkoll, u jekk dan kienx qiegħed jindika l-*mileage* proprju tal-vettura jew le. L-appellat qal li huwa kien għamilha ċara mal-appellant noe li huwa ried jikri vettura ġdida, u mhux vettura ‘daqs li kieku ġdida’ jew ‘ftit ġdida’, u għalhekk huwa ma kellu l-ebda għażla għajr li jirritorna t-tieni vettura qabel iż-żmien, u b’hekk itemm ir-relazzjoni kuntrattwali mal-appellant fid-29 ta’ Ottubru, 2019, peress li l-vettura ma kinitx tal-kwalità u tal-kundizzjoni pattwita. Qal li sussegwentement huwa talab lill-appellant noe irodd lura l-ammont ta’ €500 rappreżentanti *damage excess deposit*, u l-ammont ta’ €495 rappreżentanti l-valur tal-kiri tal-vettura għall-perijodu bejn id-29 ta’ Ottubru sat-18 ta’ Novembru, 2019, jiġifieri l-perijodu li kien diġà ħallas tiegħu bil-quddiem, li matulu huwa ma setax jagħmel użu mill-vettura. L-appellat qal li għalkemm is-servizz mogħti ma kienx dak imwiegħed, huwa ma kienx qed jippretendi rifiżjoni tal-ftit ġranet fejn laħaq għamel użu mill-vetturi. Qal li minkejja t-talba tiegħu biex jiġi rimborsat l-imsemmija ammonti, l-appellant noe baqa’ inadempjenti, u dan anki wara l-intervent tal-Malta Competition and Consumer Affairs Authority. L-appellat qal li l-appellant noe istitwixxa proċeduri kontra tiegħu u kontra s-soċjetà li timpjegah, minkejja li din ma kinitx parti mill-kuntratt ta’ kiri bejn il-partijiet, għall-kiri ta’ vettura għal tmintax-il xahar, bil-kera ta’ €660 fix-xahar.

10. L-appellat qal li skont l-artikolu 22(2) tal-Att dwar l-Affarijiet tal-Konsumatur (Kap. 378 tal-Liġijiet ta’ Malta), huma tlieta l-istanzi fejn deċiżjoni tat-Tribunal tista’ tiġi appellata, u cioè, (i) fuq kull ħaġa li jkollha x’taqsam mal-ġurisdizzjoni tat-Tribunal; (ii) fuq kull kwistjoni ta’ preskrizzjoni; jew (iii) meta t-Tribunal ikun mar kontra l-prinċipji ta’ ġustizzja naturali, u dik l-azzjoni tkun

ippregudikat id-drittijiet ta' min jappella. Qal li fil-fehma tiegħu mhux minnu li t-Tribunal mar kontra d-dettami tal-imparzjalità jew tal-ekwità skont il-liġi b'mod gravi, u dan jirriżulta mir-rikors tal-appell innifsu. Qal ukoll li kuntrarjament għal dak allegat fir-rikors tal-appell, id-deċiżjoni tal-appell hija waħda ben motivata, u tagħti lok biex kull min huwa interessat jifhem ir-raġunijiet li fuqhom hija bbażata. L-appellat qal li t-Tribunal mhux marbut li jagħti motivazzjonijiet twal u dettaljati fid-deċiżjoni tiegħu, iżda huwa suffiċjenti li jelenka d-dettalji ewlenin li jkun sejjes id-deċiżjoni tiegħu fuqhom. L-appellat qal li d-deċiżjoni tat-Tribunal tissodisfa r-rekwiżiti legali, u dan qies il-provi kollha miġjuba mill-partijiet fid-deċiżjoni tiegħu. Qal li minkejja li huwa minnu li t-tieni vettura kienet aħjar mill-ewwel waħda, dan ma jwassalx għall-konklużjoni li l-appellant kien wettaq l-obbligi tiegħu kollha skont il-ftehim bejn il-partijiet. Qal li huwa ġie mwiegħed karozza ġdida, u mhux karozza kwazi ġdida jew użata iżda qisha ġdida, jew ġdida iżda ftit imkabra. L-appellat qal li l-karozza li ngħata kellha ħsara serja fil-brejkijiet, kellha *mileage* eċċessiv, kienet mimlija daqqiet, kellha bieba mkissra u *b'warning* li ser tieqaf ħesrem jekk ma tingħatax *top-up* tal-*AdBlue*. Qal li meta wiegħed jikkunsidra dan kollu, ma jistax jingħad li huwa ngħata karozza ġdida, irrispettivament minn jekk il-ħsara tisewwiex jew le. L-appellat qal li l-appellant noe mhux jifhem li t-talba tiegħu quddiem it-Tribunal ma kinitx biss imsejsa fuq il-ħsarat li kellhom iż-żewġ vetturi li ġew ipprovduti, imma wkoll għaliex huwa kien ikkuntratta biex jikri karozza ġdida. L-appellat qal li minħabba d-difetti u l-kwistjonijiet kollha li nqalgħu fil-perijodu qasir li l-karozzi damu għandu, ma jistax jingħad li huwa kellu f'idejh karozzi ġodda, jew li ngħata servizz adegwat mill-appellant noe. L-appellat qal li waħda mill-motivazzjonijiet mogħtija mit-Tribunal fil-fatt kienet li l-appellant naqas

milli jispeċifika li l-kelma 'new' ma kinitx tfisser li l-vetturi kienu verament ġodda. L-appellat qal li l-pożizzjoni tiegħu hija kkonfermata mill-korrispondenza esebta fil-proċess, fejn l-impjegata tal-appellant noe tirreferi għall-karozzi bħala 'brand new', minkejja li jirrizulta li dan ma kienx minnu. L-appellat qal li għalhekk dan l-appell m'huwa xejn għajr tentattiv tal-appellant sabiex jipprova joħloq appell meta l-liġi ma tagħti l-ebda dritt għal dan fuq punt ta' fatt, fejn it-talba tkun anqas minn elf u mitejn Euro (€1,200). L-appellat qal li s-sentenza li jirreferi għaliha l-appellant noe fir-rikors tal-appell tiegħu, tikkonċerna l-*actio redhibitoria*, li hija azzjoni vestita f'xerrej f'każ ta' kuntratt ta' bejgħ fejn hemm prova suffiċjenti ta' difett latenti, fejn li kieku x-xerrej kien konsapevoli tiegħu, ma kienx jasal biex jakkwista l-oġġett. Qal li fil-każ odjern la hemm bejgħ u lanqas hemm allegazzjoni ta' difett latenti, u għalhekk id-dettami ta' dik il-Qorti m'għandhom l-ebda rilevanza għall-każ odjern.

11. B'riferiment għat-tieni aggravju tal-appellant noe, l-appellat qal li dan l-aggravju m'għandux jintlaqa', għaliex ma jirrizultax li t-Tribunal laqa' t-tieni talba tiegħu. Kompla jgħid li t-talbiet li jirreferi għalihom it-Tribunal huma dawk relatati mar-rifuzjoni ta' €500 bħala *damage excess deposit*, u ta' €495 għall-perijodu mħallas minnu bil-quddiem meta ma giet użata l-ebda vettura minnu. L-appellat qal li filwaqt li t-Tribunal ddikjara li huwa kellu d-dritt jittermina l-kuntratt ta' kiri, it-Tribunal ma ppronunzjax ruħhu dwar jekk l-ammont ta' €10,720 *ai termini* tal-klawsola 2 tal-kuntratt huwiex verament dovut jew le.

Konsiderazzjonijiet ta' din il-Qorti

12. Din il-Qorti sejra tgħaddi sabiex tikkunsidra l-aggravji mressqa mill-appellant noe fir-rikors tal-appell tiegħu, u dan fid-dawl tal-konsiderazzjonijiet

magħmula mit-Tribunal fis-sentenza appellata, u tas-sottomissjonijiet magħmula mill-appellat.

L-Ewwel Aggravju: [It-Tribunal kiser il-prinċipji ta' ġustizzja naturali meta kkonkluda li l-vettura kellha difett jew kienet iddanneġġjata]

13. L-appellant noe qal li ma ġiex ippruvat mill-appellat li l-vettura in kwistjoni kellha xi dannu. Qal li din il-vettura kienet prattikament ġdida, tant hu hekk li kienet ilha biss ftit xhur fit-triq. Qal li l-allegata ħsara li ilmenta minnha l-appellat kienet tikkonsisti fi *stopper* maqluġħ, li sussegwentement twaħħal, u f'messaġġ fuq l-*infotainment system* tal-vettura, li l-vettura kellha bżonn *top-up* tal-*AdBlue* Filter, li huwa messaġġ li jitla' meta l-livell tal-*AdBlue fuel* ikun baxx, imma dan mhux messaġġ li jindika ħsara fil-vettura. Qal li fil-fatt l-appellat innifsu qal li kien sodisfatt bit-tieni vettura wara li kien saqha għal ftit, u dan beda jilmenta minn difetti fil-vettura wara li għamel xi jumejn isuqha hu.

14. Il-Qorti tibda billi tirrileva li l-ftehim bejn il-partijiet kien għall-kiri ta' vettura ġdida. Il-Qorti tagħraf li fl-industrija tal-kiri tal-karozzi, huwa aċċetat li karozza ġdida tista' tkun karozza prattikament ġdida jew karozza li diġà ntuzat, imma mill-korrispondenza li kien hemm bejn il-partijiet, joħroġ ċar li t-talba tal-appellat kienet għall-kiri ta' vettura ġdida, *brand new*, jiġifieri vettura li la tkun intużat u lanqas instaġet fit-triq qabel. Imma l-ewwel vettura li giet mikrija lill-appellat mill-appellant noe kellha *mileage* ta' aktar minn sbatax-il elf kilometru, u wara ilmenti min-naħa tal-appellat minħabba xi difetti li beda jikkonstata ftit wara li qabad isuq il-vettura, bidluhielu ma' vettura oħra tal-istess għamla li

kellha anqas minn sebat elef kilometru. L-appellat jgħid li dan ifisser li lanqas it-tieni vettura ma kienet ġdida, għalkemm kienet ġdida aktar mill-ewwel vettura li ngħata. Jirriżulta li waħda mill-bibien tal-vettura kellha difett li ried jissewwa, u qabel ma ssewwa ikkaġuna tbengil lill-mara tal-appellat. Ftit ħin wara li beda jsuq, telgħet ukoll it-twissija tal-*AdBlue*, li tindika li l-vettura kellha ċertu *mileage*, u li biex tkun tista' tkompli tinstaq kellha tingħata dan l-addittiv. Kien f'dan il-punt li l-appellat irritorna l-vettura lura għand l-appellant noe.

15. Il-Qorti tqis li vettura li tinkera lil terzi, irrispettivament minn jekk hijiex *brand new* jew jekk ilhiex fit-triq biss ftit ġimgħat jew xhur, m'għandux ikollha l-problemi li sab l-appellat fil-ftit sigħat li t-tieni vettura kienet ilha fil-pussess tiegħu. Mhux aċċettabbli li vettura li tinkera bħala ġdida, anki jekk mhix ġdida fjamanta, ikollha *stopper* nieqes fil-bieba, li jikkaguna tbengil lil persuna riekba fil-vettura, jew li wara ftit kilometri ta' sewqan titla' t-twissija li jrid isir *top-up* tal-*AdBlue*, inkella din ma tkunx tista' tinstaq. Jekk xejn dawn il-problemi jindikaw li l-vettura ma gietx spezzjonata kif suppost qabel inkriet lill-appellat, u dan kellu raġun jilmenta li l-vettura ma kinitx ġdida, mhux biss għaliex din kellha ammont ta' kilometri rreġistrati fuqha, iżda għaliex vettura ġdida ma tagħtix il-problemi li tat din il-vettura in kwistjoni, u ċertament ma ttellax it-twissija li jekk ma jsirx *top-up* tal-*AdBlue*, mhux ser tkun tista' tinstaq. L-appellat x'aktarx li ma kienx ser jinsisti li kien hemm ksur kuntrattwali min-naħa tal-appellant, li kieku din it-tieni vettura ma tatx dawn il-problemi, iżda ladarba din bdiet turi li għandha dawn il-problemi, l-appellat għustament ma riedx jibqa' biha aktar. Kien hemm raġuni għalfejn l-appellat talab li jingħata karozza ġdida. Mhux aċċettabbli iżda li anki vettura b'ferm anqas kilometragġ minn dak indikat fuq

it-tieni vettura li nkrietlu, ikollha *stopper* nieqes fil-bieba, bir-rizultat li tikkawza tbengil fuq passigġier jew sewwieq. L-aspettattivi tal-appellat kienu ċari, u jirrizulta b'mod ċar li l-appellant ma laħaqx dawn l-aspettattivi, meta kera l-vettura in kwistjoni lill-appellat, jekk xejn anki għaliex vettura b'*mileage* ta' ftit eluf ta' kilometri biss, mhux suppost li tat dawn it-tip ta' problemi lill-appellat. Għaldaqstant, il-Qorti tqis li t-Tribunal ma kiser l-ebda prinċipju ta' ġustizzja naturali b'din il-parti tad-deċiżjoni tiegħu, għaliex it-tieni vettura mikrija lill-appellat ċertament li kellha difetti jew problemi li mhux normalment li jinstabu f'vettura ġdida. In vista ta' dawn il-konsiderazzjonijiet, tqis li dan l-aggravju mhuwiex ġustifikat, u tilqgħu.

It-Tieni Aggravju:

[It-Tribunal kiser il-prinċipji ta' ġustizzja naturali meta ddecieda li l-€10,720 li l-appellant jippretendi li huma dovuti għall-kera tal-vettura għal perijodu ta' tmintax-il xahar, mhumiex dovuti]

16. L-appellant noe jgħid ukoll li t-Tribunal eżorbita l-limiti tal-kompetenza tiegħu meta ddecieda dwar kwistjoni kuntrattwali, jiġifieri dwar jekk l-€10,720 bħala kera għall-perijodu r-rimanenti tal-kirja, setgħux jintalbu jew le. L-appellant noe qal li huwa ma ressaq l-ebda talba quddiem it-Tribunal sabiex l-appellat jiġi ordnat iħallas dan l-ammont *ai termini* tat-tieni klawnsola tal-ftehim bejn il-partijiet, imma din hija kwistjoni li għadha pendent, u li għad trid tiġi determinata minn qorti oħra, wara li jiġi stabbilit jekk il-ftehim li kien hemm bejn il-partijiet għandux jiġi rexiss jew le.

17. L-appellat jilqa' għal dan l-aggravju billi jgħid li t-Tribunal ma ta l-ebda deċiżjoni dwar jekk l-€10,720 għandhomx jithallsu jew le. Fil-verità t-Tribunal iddikjara illi *'[t]he Tribunal feels that plaintiff was well within his rights to terminate the lease agreement.'* Il-Qorti tqis li l-kwistjoni dwar jekk il-vinkolu kuntrattwali li kien hemm bejn il-partijiet spicċax jew le, partikolarment in vista ta' dak li tipprovdi t-tieni klawsole tal-ftehim iffirmit bejn il-partijiet, *'[i]f the client returns the vehicle before the end of the lease agreement, then client is to pay Goldcar Malta the remaining months'*, tinsab pendenti quddiem Qorti oħra, it-Tribunal kellu jillimita ruħhu għal deċiżjoni dwar jekk għandhomx jigu rifiżi l-flus li l-appellat jgħid li ħallas żejda għall-perijodu meta il-vettura kienet giet ritornata, kif ukoll il-flus tal-excess imħallsa minnu inutilment, u dan labarba l-vettura ma baqgħetx fil-pussess tiegħu. Il-kwistjoni dwar il-pretensjoni tal-appellant li huwa għandu jedd jithallas għall-perijodu kollu tal-kirja maqbul bejn il-partijiet, apparti li jeżorbita fl-ammont il-kompetenza tat-Tribunal tal-Konsumatur, hija kwistjoni li tinstab pendenti u li għad trid tiġi deċiża mill-Qorti tal-Maġistrati (Malta), u għalhekk la din il-Qorti u lanqas it-Tribunal ma jistgħu jippronunzjaw ruħhom dwarha. Huwa minnu li t-Tribunal ma ppronunzjax ruħhu dwar l-ammont ta' €10,720 pretiż mill-appellant, u imkien ma qal jekk dawn humiex dovuti jew le, iżda fil-fehma tal-Qorti, it-Tribunal lanqas ma kellu jidhol fil-kwistjoni dwar jekk l-appellat kellux raġun jitermina l-ftehim tal-kiri, anki jekk intalab jagħti deċiżjoni dwar dan mill-appellat. Il-fatt li din it-talba kienet diġà tiffirma l-mertu ta' proċeduri separati bejn il-partijiet quddiem il-Qorti tal-Maġistrati (Malta), kellu wkoll jipprekludi lit-Tribunal milli jippronunzja ruħhu dwar dan, partikolarment ladarba l-liġi stess tgħid li l-ġurisdizzjoni tat-Tribunal fir-rigward ta' kwistjonijiet li jinvolvu lill-konsumatur, mhijiex waħda

esklussiva. Għaldaqstant il-Qorti sejra tilqa' dan it-tieni aggravju, u tidderiegi lill-partijiet jistennew l-eżitu tal-proċeduri quddiem il-Qorti tal-Maġistrati (Malta) dwar jekk huwiex dovut ħlas għall-perijodu kollu tal-kirja lill-appellant noe. Minkejja dan, u ladarba ma sar l-ebda appell speċifikament fuq din il-parti tad-deċiżjoni, kif ukoll in vista tal-fatt li l-ewwel aggravju qiegħed jiġi miċħud, il-Qorti qiegħda tordna li l-ħlas ta' €995 pretiż mill-appellant u li t-Tribunal iddeċieda li għandu jiġi rifiuż lilu mill-appellant noe, għandu jithallas lilu xorta waħda.

Decide

Għar-raġunijiet premissi, il-Qorti taqta' u tiddeċiedi dwar dan l-appell, billi filwaqt li tiċhad l-ewwel aggravju, tilqa' t-tieni aggravju, u tordna li l-ammont ta' disgħa mija u ħamsa u disgħin Euro (€995.00) pretiż mill-appellant għandu jiġi rifiuż lilu, kif gie deċiż mit-Tribunal. Il-Qorti tidderiegi lill-partijiet jistennew l-eżitu tal-proċeduri istitwiti mill-appellanti quddiem il-Qorti tal-Maġistrati (Malta), dwar jekk għandux jiġi ordnat il-ħlas tal-kera tal-vettura għall-perijodu kollu tal-kirja ta' tmintax-il xahar miftiehem bejn il-partijiet.

L-ispejjeż ta' dawn il-proċeduri fiż-żewġ istanzi, għandhom jithallsu nofs kull wieħed mill-partijiet.

Moqrija.

**Onor. Dr Lawrence Mintoff LL.D.
Imħallef**

**Rosemarie Calleja
Deputat Registratur**