



FIL-QORTI ĊIVILI – SEZZJONI TAL-KUMMERĊ

**ONOR. IMĦALLEF
IAN SPITERI BAILEY LL.M. LL.D.**

Illum, it-Tlieta, 29 ta' Ottubru, 2024

Rikors Nru: 70/2024 ISB

Meeting Point Malta Limited (C41046)

Vs

X

**DIGRIET MOGHTI GĦAR-RIKORS TAS-SOĊJETA' RIKORRENTI TAT-
22 TA' OTTUBRU 2024 MAGĦMUL AI TERMINI TAL-ARTIKOLU 220
TAL-KAP 386 TAL-LIĠIJET TA' MALTA**

Il-Qorti,

Rat ir-Rikors tas-soċjeta' **Meeting Point Malta Limited (C41046)** magħmul ai termini tal-**Artikolu 220 tal-KAP 386** fit-22 ta' Ottubru 2024, fejn wara illi rreferiet għall-proċeduri odjerni, ossia dawk minnha stess intavolati għall-istralċ tagħha stess in segwitu għal rizzoluzzjoni minnha stess meħuda, irreferiet lill-Qorti għal proċeduri li jinsabu pendent, ossia,

- i. Qorti tal-Maġistrati, Rikors numru 188/2024, GEORDIE OPERATIONS LIMITED vs MEETING POINT MALTA LIMITED, pendent appuntament għall-ewwel dehra
- ii. Tribunal Talbiet zgħar, Rikors numru 247/2024, APPROVED OPERATIONS LIMITED vs MEETING POINT MALTA LIMITED, Appuntata 14/11/2024
- iii. Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 923/2024, MALTARAMA LIMITED vs MEETING POINT MALTA LIMITED, Deċiża 24/09/2024
- iv. Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 907/2024, ABELA CHARLOT vs MEETING POINT MALTA LIMITED, differita 12/11/2024
- v. Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 881/2024, ISLAND RESORTS COMPANY LIMITED vs MEETING POINT MALTA LIMITED, Deċiża 14/10/2024
- vi. Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 776/2024, ANGELO CATERING LIMITED vs MEETING POINT MALTA LIMITED, Deciza 30/09/2024
- vii. Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 774/2024, KOPTACO COACHES CO-OPERATIVE LIMITED vs MEETING POINT MALTA LIMITED, Deciza 09/10/2024
- viii. Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 756/2024, URBAN HOTELS LIMITED vs MEETING POINT MALTA LIMITED, Appuntata 23/10/2024
- ix. Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 755/2024, WESTMINSTER PROPERTIES LIMITED VS MEETING POINT MALTA LIMITED, Deciza 09/10/2024
- x. Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 684/2024, MALTARAMA LIMITED vs MEETING POINT MALTA LIMITED, Deċiża 11/07/2024
- xi. Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 663/2024, BV FORMOSA COMPANY LIMITED vs MEETING POINT MALTA LTD, Appuntata 29/10/2024
- xii. Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 648/2024, COMINOLOGY LIMITED vs MEETING POINT MALTA LIMITED, Deċiża 30/09/2024
- xiii. Qorti Ċivili, Prim' Awla, Mandat ta Sekwestru numru 970/2024, COMINOLOGY LIMITED vs. MEETING POINT MALTA LIMITED.

– u talbet illi din il-Qorti tagħti ordni ta' sospensjoni u/jew waqfien ta' dawk l-istess proċeduri għar-raġunijiet elenkati.

Rat l-atti ta' dawn il-proċeduri.

Ikkunsidrat:

Illi l-**Art 220 tal-Kap 386** li jaqra hekk:

F'kull zmien wara li jkun ipprezentat rikors ghal stralc, u qabel ma jinghata ordni ghal stralc, il-kumpannija, jew kull kreditur jew kontributorju, jistghu jagħmlu rikors lill-qorti biex twaqqaf il-procedimenti gudizzjali tal-qorti pendenti kontra l-kumpannija, u l-qorti tista' twaqqaf dawk il-procedimenti b'dawk il-kondizzjonijiet li jidhrilha xierqa.

Għal esposizzjoni akkadamika dettaljata u preċiża dwar dan l-artikolu tal-Liġi, il-Qorti tirreferi għad-digriet ta' din il-Qorti kif diversament preseduta, fil-proċeduri **6/2018JZM** fl-ismijiet **HSBC Bank Malta p.l.c. (C-3177) vs The Golden Shepherd Group Limited (C-14948)** tal-4 ta' Ottubru 2018 u tqis illi ma għandha xejn x'izzid għajr illi tagħmel tagħha l-insenjament hemmekk magħmul.

In kwantu għall-fatti speċi tal-każ odjern, jirriżulta illi dan ir-rikors qed isir mill-kumpannija stess wara illi hija talbet għall-istralċ tagħha stess, qed isir meta l-ordni ta' l-istralċ għada ma saritx, u qed isir ukoll fir-rigward ta' proċeduri legali illi għadhom pendenti kontra l-istess soċjeta' rikorrenti.

Għalhekk il-Qorti tqis illi r-rekwiżiti illi jrid l-artikolu 220 tal-KAP 386 huma kollha sodisfatti.

Jibqa' l-fatt illi l-Qorti għandha diskrezzjoni wiesgħa meta tiġi biex tipprovdi dwar talba skont l-**Art 220 tal-Kap 386**.

Ikkunsidrat Ulterjorment:

Illi s-soċjeta' rikorrenti tibbaża t-talba tagħha fuq il-kunċett tal-benefiċċju għall-korp kollettiv tal-kredituri u mhux għall-benefiċċju ta' kreditur wieħed.

Dwar dan, fil-ktieb “**The Law of Insolvency**” (Sweet & Maxwell - 1998) **Ian Fletcher** ighid hekk (pg 501):

The fundamental principle upon which winding up is based is the collective nature of proceedings. The objective underlying the relevant legal provisions is to ensure that an orderly regime is imposed upon all interested parties, so that none of them individually may contrive to enhance his position by exploiting some fortuitous circumstance which may yield some personal advantage, in the form of a larger proportional return on debts which are due, or a direct and more rapid recovery of payment, than would result from participation in the processes of the winding up, and receiving dividend in common with all other creditors whose debts carry an equal ranking in order of priority ... In order to ensure that the above objective is achieved the law establishes a series of barriers to the exercise by a company of its normal rights and remedies when it is prospectively or actually in litigation. By this means, the remaining assets of the company are maintained intact so that they may be administered in accordance with the principles of insolvency law.

Ukoll, jingħad f’**Boyle & Birds` Company Law** – 8th Edition – 2011 (pg 913):

Unpaid creditors of a company may consider commencing winding-up proceedings against the company as an alternative to suing for payment. As a debt collection mechanism, winding up proceedings may be swifter and, for the individual creditor, less expensive than a claim that may come to trial for some time; on the other hand, winding up is a collective procedure for the benefit of creditors generally and it does not benefit specific creditors individually (F. Odiah “Winding Up Recalcitrant Debtors” 1995 LMCLQ 107).

Ikkunsidrat Ulterjorment:

Illi l-Qorti tabbraċċja din il-linja ta’ ħsieb u tqis illi jkun utili, almenu fiċ-ċirkostanzi tal-każ odjern, illi f’dan l-istadju tal-proċeduri ta’ stralċ tqis l-

interess kollettivi tal-kredituri potenzjali aktar milli l-interessi individwali, u, magħdud il-fatt illi l-elementi rikjesti mill-Artikolu 220 tal-KAP 386 huma sodisfatti kif fuq espress, konsegwentament ser tgħaddi biex tilqa' t-talba.

GĦALDAQSTANT, għar-ragunijiet kollha premessi, il-Qorti qed tipprovdi dwar it-talba tas-socjeta' rikorrenti magħmula bir-rikors tagħha tas-27 ta' Settembru 2024 billi **tilqa`** t-talba u:

a) **Tordna** illi a bazi tal-Artikolu 220 tal-KAP 386 tal-Ligijiet ta' Malta, jiġu sospiżi l-proċeduri pendenti segwenti

- i. *Qorti tal-Maġistrati, Rikors numru 188/2024, GEORDIE OPERATIONS LIMITED vs MEETING POINT MALTA LIMITED, pendenti appuntament għall-ewwel dehra*
- ii. *Tribunal Talbiet zgħar, Rikors numru 247/2024, APPROVED OPERATIONS LIMITED vs MEETING POINT MALTA LIMITED, Appuntata 14/11/2024*
- iii. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 923/2024, MALTARAMA LIMITED vs MEETING POINT MALTA LIMITED, Deċiża 24/09/2024*
- iv. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 907/2024, ABELA CHARLOT vs MEETING POINT MALTA LIMITED, differita 12/11/2024*
- v. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 881/2024, ISLAND RESORTS COMPANY LIMITED vs MEETING POINT MALTA LIMITED, Deċiża 14/10/2024*
- vi. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 776/2024, ANGELO CATERING LIMITED vs MEETING POINT MALTA LIMITED, Deciza 30/09/2024*
- vii. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 774/2024, KOPTACO COACHES CO-OPERATIVE LIMITED vs MEETING POINT MALTA LIMITED, Deciza 09/10/2024*
- viii. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 756/2024, URBAN HOTELS LIMITED vs MEETING POINT MALTA LIMITED, Appuntata 23/10/2024*
- ix. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 755/2024, WESTMINSTER PROPERTIES LIMITED VS MEETING POINT MALTA LIMITED, Deciza 09/10/2024*
- x. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 684/2024, MALTARAMA LIMITED vs MEETING POINT MALTA LIMITED, Deċiża 11/07/2024*

- xi. Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 663/2024, BV FORMOSA COMPANY LIMITED vs MEETING POINT MALTA LTD, Appuntata 29/10/2024*
- xii. Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 648/2024, COMINOLOGY LIMITED vs MEETING POINT MALTA LIMITED, Deċiża 30/09/2024*
- xiii. Qorti Ċivili, Prim' Awla, Mandat ta Sekwestru numru 970/2024, COMINOLOGY LIMITED vs. MEETING POINT MALTA LIMITED.*

u dan sakemm jiġi deċiż jekk is-soċjeta' **Meeting Point Malta Limited (C41046)** għandhiex tiġi xjolta jew le b'dawn l-odjerni proċeduri, sabiex f'każ affermattiv, imbagħad ikun il-likwidatur illi jieħu l-passi illi jkun jidhirlu xierqa u f'każ negattiv, tkun tista' tiġi *lifted* is-sospensjoni hawnhekk ordnata. Il-Qorti qed tagħmilha ċara illi dan il-provvediment japplika ukoll għal dawg il-kawzi gja deċiżi u għalhekk għall-eżekuzzjoni tal-istess sentenzi.

b) **Tordna** lir-Regjistratur tal-Qorti sabiex jassigura li kopja ta` dan il-provvediment tkun inserita b`nota fl-atti tal-kawzi kollha pendenti quddiem, ossia,

- i. Qorti tal-Maġistrati, Rikors numru 188/2024, GEORDIE OPERATIONS LIMITED vs MEETING POINT MALTA LIMITED, pendenti appuntament għall-ewwel dehra*
- ii. Tribunal Talbiet zgħar, Rikors numru 247/2024, APPROVED OPERATIONS LIMITED vs MEETING POINT MALTA LIMITED, Appuntata 14/11/2024*
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- v. Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 881/2024, ISLAND RESORTS COMPANY LIMITED vs MEETING POINT MALTA LIMITED, Deċiża 14/10/2024*
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- vii. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 774/2024, KOPTACO COACHES CO-OPERATIVE LIMITED vs MEETING POINT MALTA LIMITED, Deciza 09/10/2024*
- viii. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 756/2024, URBAN HOTELS LIMITED vs MEETING POINT MALTA LIMITED, Appuntata 23/10/2024*
- ix. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 755/2024, WESTMINSTER PROPERTIES LIMITED VS MEETING POINT MALTA LIMITED, Deciza 09/10/2024*
- x. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 684/2024, MALTARAMA LIMITED vs MEETING POINT MALTA LIMITED, Deċiża 11/07/2024*
- xi. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 663/2024, BV FORMOSA COMPANY LIMITED vs MEETING POINT MALTA LTD, Appuntata 29/10/2024*
- xii. *Qorti Ċivili, Prim' Awla, Rikors Ġuramentat numru 648/2024, COMINOLOGY LIMITED vs MEETING POINT MALTA LIMITED, Deċiża 30/09/2024*
- xiii. *Qorti Ċivili, Prim' Awla, Mandat ta Sekwestru numru 970/2024, COMINOLOGY LIMITED vs. MEETING POINT MALTA LIMITED.*

L-ispejjeż ta` dan il-provvediment jibqgħu a kariku tas-soċjeta' rikorrenti.

Ian Spiteri Bailey
Onor. Imħallef

Amanda Cassar
Deputat Registratur