

Kopja Informali ta' Sentenza



MALTA

**QORTI CIVILI  
PRIM' AWLA**

**ONOR. IMHALLEF  
GEOFFREY VALENZIA**

Seduta ta' l-20 ta' Jannar, 2003

Citazzjoni Numru. 1174/2002

**Seduta ta' nhar it-Tnejn, 20 ta' Jannar, 2003.**

**Kawza Numru: 17**

**Citaz. Nru. 1174/02 GV**

**A.C.B. International Company Limited  
Vs  
General National Maritime Transport Company**

**II-Qorti.**

Rat l-att tac-citazzjoni li permezz taghha s-socjeta' attrici ppremetiet illi permezz ta' skrittura privata datata 7 t'April, 2001, is-socjeta' konvenuta ikkonstitwit ruhha *a certain, liquid and due debtor of **CREDITOR COMPANY***, is-socjeta' attrici, *for the sum of one million one hundred and ninety thousand and three hundred and thirty three Malta Liri and ninety two cents (Lm1,190,333.92) representing*

*the balance due today for the value of general supplies provided by A.C.B. International Company Limited to General National Maritime Transport Company till the 9<sup>th</sup> March, 2001 and for the further sum of fifty three thousand and five hundred and twenty eight Malta Liri and ninety six cents (Lm 53,528.96) representing the interest due on the capital sum.*

Premess illi ai termini ta' l-imsemmija skrittura privata *the said amount of Lm 53,528.96 is being capitalized according to Section 1142 of Chapter 16 of the Laws of Malta, thus the total capital sum due to **CREDITOR COMPANY** by **DEBTOR COMPANY**, is one million two hundred and forty three thousand eight hundred and sixty two Malta Liri and eighty eight cents (Lm1,243,862.88) kopja ta' liema skrittura privata qed tigi hawn annessa u mmarkata bhala Dok "ACB1".*

Premess illi fis-7 t'April, 2001, is-socjeta' konvenuta hallset akkont lis-socjeta' attrici s-somma ta' tmien mitt elf Liri Maltin (Lm800,000.00).

Premess illi ai termini ta' l-istess skrittura privata l-partijiet kontendenti ftehm u illi **DEBTOR COMPANY** *undertakes to pay unto **CREDITOR COMPANY** the remaining balance of four hundred and forty three thousand eight hundred and sixty two Malta Liri and eighty eight cents (Lm443,862.88) by means of bimonthly consecutive installments of seventy thousand Malta Liri (Lm70,000.00) each, until the debt is fully honored, b'dan illi l-ewwl pagament kien dovut entro zmien xahrejn mid-data ta' l-imsemmija skrittura privata.*

Premess illi in oltre l-partijiet kontendenti ftehm u illi *from the sum of Lm70,000.00 to be paid every two months as aforesaid **CREDITOR COMPANY** shall be entitled to set off interest due until date of payment and the remaining balance shall be calculated as a payment on account of the capital sum due. Interest at the rate of 8 % per annum shall be due by **DEBTOR COMPANY** to **CREDITOR COMPANY** on the balance of Lm443,862.88 with effect from date of agreement until date of effective payment.*

Premess illi s-socjeta' konvenuta effettwat erba' pagamenti rateali u cioe' pagament ta' sebghin elf Liri Maltin (Lm70,000.00) fis-6 ta' Gunju, 2001, Dok "ACB2", pagament ta' sebghin elf liri Maltin (Lm70,000.00) fis-27 t'Awissu, 2001, Dok "ACB3", pagament ta' disgha u sittin elf u disa' mija tlieta u sittin Liri Maltin (Lm69,963.00) fl-4 ta' Ottubru, 2001, Dok "ACB4", pagament ta' disgha u sittin elf u disa' mija sitta u tmenin Liri Maltin (Lm69,986.00) fis-7 ta' Marzu, 2002, Dok "ACB5".

Premess illi sal-gurnata ta' llum, nonostante dak premess fl-iskrittura privata tas-7 t'April, 2001, is-socjeta' konvenuta ghadha ma hallsitx lis-socjeta' attrici l-pagament ta' sebghin elf Liri Maltin (Lm70,000.00) dovut fis-7 ta' Frar, 2002.

Premess illi ai termini ta' imsemmija skrittura privata tas-7 t'April, 2001, *should **DEBTOR COMPANY** be in arrears in the payment of any one installment or an equivalent amount and should it remain so in arrear for a period of fourteen (14) days from due date, without the necessity for **CREDITOR COMPANY** of serving notice upon **DEBTOR COMPANY**, **DEBTOR COMPANY** shall lose the benefit of time and any pending balance shall become immediately due.*

Premess illi ghalhekk llum is-socjeta' attrici hija kreditrici tas-socjeta' konvenuta fl-ammont ta' mija sebgha u tmenin elf u seba' mija hamsa u ghoxrin Liri Maltin u tlieta u disghin centezmu (Lm187,725.93) rapprezentanti l-bilanc dovut mill-istess socjeta' konvenuta lis-socjeta' attrici ai termini tal-precitata skrittura privata datata 7 t'April, 2001, Dok. ACB6".

Premess illi llum l-imsemmi ammont dovut mis-socjeta' konvenuta lis-socjeta' attrici huwa kreditu cert, likwidu u dovut tas-socjeta' attrici fil-konfront tas-socjeta' konvenuta u fil-fehma ta' l-istess socjeta' attrici jikkonkorru l-elementi preskritti mill-Artikolu 167-170 tal-Kapitolu 12 tal-Ligijiet ta' Malta, sabiex din il-kawza tigi deciza bid-dispensa tas-smiegh billi fil-fehma ta' l-istess socjeta' attrici s-socjeta'

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konvenuta ma ghandha ebda eccezzjonijiet xi tressaq kontra t-talba ghall-hlas ta' l-imsemmi ammont maghmula kontra taghha mis-socjeta' attrici, Dok. ACB7".

Premess illi nonostante diversi talbiet ghall-hlas, is-socjeta' konvenuta baqghet inadempjenti u ma hallsitx dak minnha dovut lis-socjeta' attrici.

Ghaldaqstant is-socjeta' attrici talbet lil din il-Qorti, prevja kull dikjarazzjoni necessarja u opportun:

1. tipprocedi ghas-sentenza skond it-talba tas-socjeta' attrici bid-dispensa tas-smiegh tal-kawza ai termini tal-Artikolu 167-170 tal-Kapitolu 12 tal-Ligijiet ta' Malta ;

2. Tikkundannha thallas lis-socjeta' attrici s-somma ta' mija sebgħa u tmenin elf u seba' mija hamsa u ghoxrin Liri Maltin u tlieta u disghin centezmu (Lm187,725.93) rapprezentanti l-bilanc dovut mill-istess socjeta' konvenuta lis-socjeta' attrici ai termini ta' l-iskrittura privata datata 7 t'April 2001.

Bl-ispejjez, u bl-imghax legali dekoribbli mis-7 ta' Marzu 2002 sad-data ta' l-effettiv pagament, kontra s-socjeta' konvenuta.

Rat id-dikjarazzjoni w in-nota tax-xhieda tas-socjeta' attrici.

Rat illi c-citazzjoni giet debitament notifikata lis-socjeta' konvenuta li naqset li tipprezenta nota ta' l-eccezzjonijiet u hekk baqghet kontumaci

Semghet ix-xhieda ta' Alfred Borg.

Semghet l-avukat tas-socjeta' attrici.

Ezaminat l-atti tal-kawza;

Billi mill-provi mhux kontradetti t-talba dedotta fic-citazzjoni tirrizulta pruvata;

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Fil-kontumacja tas-socjeta' konvenuta tiddeciedi billi tilqa' t-talba tas-socjeta' attrici kif dedotta fic-citazzjoni bl-imghax u bl-ispejjez kontra s-socjeta' konvenuta.

**ONOR. IMHALLEF GEOFFREY VALENZIA B.A., LL.D**

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