



## TRIBUNAL GHAL TALBIET ZGHAR

**GUDIKATUR DR.  
PETER BORG COSTANZI**

Seduta ta' l-4 ta' Frar, 2005

Talba Numru. 508/2004

**L-Awtorita' ta' Malta dwar  
l-Ambjent u l-Ippjanar**

**Vs**

**Paul Bugeja**

### **It-Tribunal**

Ra l-Avviz tat-talba li permezz tieghu l-Awtorita' attrici talbet li l-konvenut jigi kkundannat ihallas is-somma ta' sitt mija w erba' liri Maltin u disa' centezmi (Lm604.09c) rapprezentanti spejjez minnha nkorsi meta hadet *direct action* in segwitu ghall-*enforcement action* ECF980/96 fuq proprjeta' ndikata bhala Plot 2, Tax-Xierfa fil-limiti tar-Rabat.

Ra li l-konvenut debitament notifikat ma pprezenta l-ebda Risposta.

Sema' x-xhieda ta' Charles Debattista in rapprezentanza ta' l-Awtorita' attrici.

Ra l-atti kollha tal-kawza u d-dokumenti esebiti.

### **Ikkunsidra**

Illi mill-provi prodotti jirrizulta ampjament li l-ammont mitlub mill-Awtorita' attrici huwa debitament pruvat u jidher gustifikat. Jirrizulta illi l-Awtorita' attrici harget Avviz biex Tieqaf u ta' Twettieq kontra l-konvenut fuq il-proprjeta' fuq imsemmija u stante li l-konvenut ma wettaqx dak li gie ordnat lilu kellha tipprocedi sabiex tiehu *direct action* hija stess sabiex il-proprjeta' tigi ri-integrata.

Sabiex dan seh l-Awtorita' attrici nkorriet spejjez f'ammont ta' sitt mija w erba' liri Maltin u disa' centezmi (Lm604.09c) kif mitlub fil-kawza. L-azzjoni tidher li hija bbazata fuq id-dispozizzjonijiet tal-Kap. 356 u senjatament l-Art. 55A li jghid hekk:

**“55A.** (1) If any steps or other action, including any discontinuance, stoppage or similar requirement, required to be taken by an enforcement notice have not been taken within the time specified therein, the Authority may enter on the land, or the area at sea and take such steps or other action as aforesaid, including the disabling or removal of any equipment, machinery, tools, belongings, vehicles or other objects that may be on site and the carrying out of any works necessary to comply with what is requested in the enforcement notice and may for such purpose request the assistance of the Police Force, any local council, any department of Government or any agency of Government; and the Police Force shall for such purpose exercise such powers as are vested in them at law.

(2) Where the removal of an illegal development involves by necessity the removal also of a development which is not illegal, the Authority may proceed to remove also such other development, the removal of which is necessary as aforesaid.

(3) Notwithstanding the provisions of any other law and saving the provisions of article 46 of the Constitution and article 4 of the European Convention Act, no precautionary act may be issued by any court against the Authority restraining it from the exercise of any of the powers conferred upon it by this article.

(4) All expenses reasonably incurred by the Authority in the exercise of its powers under this article shall be recoverable as a civil debt by the Authority from the owner of the land subject to such right of recovery such person may have against any other person. The Authority shall not be liable for any damages as a result of the exercise of its powers under this article unless it is proved that such damage resulted from gross negligence on the part of the Authority, its officers and agents.

.....”

Mix-xhieda u mid-dokumenti prodotti jirrizulta minghajr dubju li l-ammont mitlub jikkombacja perfettament ma' dak li hemm dispost fl-Art. 55.4 fuq imsemmi u konsegwentement it-talba attrici ser tigi akkolta.

Ghal dawn il-motivi t-Tribunal jaqta' u jiddeciedi billi jiddikjara t-talba attrici gustifikata u jikkundanna lill-konvenut sabiex ihallas lill-Awtorita' attrici s-somma ta' sitt mija w erba' liri Maltin u disa' centezmi (Lm604.09c) bl-ispejjez u bl-interessi kif mitluba.

**< Sentenza Finali >**

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