FIL-PRIM'AWLA TAL-QORTI CIVILI

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

Seduta ta' nhar it-Tnejn, 08 ta' Jannar, 2001

Numru 3

Rikors Nru. 2763/95GV

Nru. 06-01

Adrian Busietta f'ismu propju kif ukoll bhala Direttur ghan-nom u in rapprezentanza ta' A.B. Holdings Limited u Town Investments Ltd

vs

Philip O Gatt f'ismu propju kif ukoll bhala Direttur ghan-nom u in rapprezentanza ta' Resort Hotels Ltd, Resort Hotels Holdings Limited, Rockleys Properties Limited u Finvest International Limited

Il-Qorti,

Rat ir-rikors;

Rat ir-risposta;

Rat l-atti kollha tar-rikors;

Rat li ma saret ebda talba ghas-sospensjoni tal-prolazzjoni tas-sentenza;

Talba

Ir-rikorrent ippremetta li l-intimati kienu gew inibiti b'mandat mahrug fl-10 ta' Novembru, 1995.

Illi b'degriet moghti mill Prim Awla fid-9 ta' Mejju, 1997 il-gestjoni tal-lukanda San Julien ghaddiet f'idejn sekwestratarju gudizzjarju.

Illi recentement l-intimati, bi ksur ta' dawn l-ordnijiet, krew ir-Reef Bar li jifforma parti minn dina l-lukanda lil Stephen England.

Ghalhekk ir-rikorrenti talbu li n-vista tal-premess dina l-Qorti tordna li jittiehdu proceduri ta' disprezz fil-konfront ta' Resort Hotels Ltd u tad-diretturi taghha Philip O. Gatt u Mark Gatt.

Risposta

Fir-risposta tieghu **Philip Gatt** pro et noe (fol. 13) rrisponda li l-kumpanija Resort Hotels Ltd ghandha identita' legalment indipendenti mid-diretturi taghha ghalhekk dawn ghandhom jigi liberati mill-osservanza tal-gudizzju.

Fil-mertu t-talba tar-rikorrenti hija semplicement allegazzjoni nfondata, billi ebda wiehed mill-intimati ma dahal f'kuntratt lokatizju referut mir-rikorrenti, u di piu' in vjolazzjoni tad-degriet moghti mill-Qorti. Se mai r-rikorrenti ghandhom jesebixxu kwalsiasi dokument li jista b'xi mod jaghti hjiel li sar dak allegat.

Mark Gatt (fol. 15) irrisponda li hu personalment mhux responsabbili ghal xi allegat disprezz.

PROVI

Stephen England fl-affidavit tieghu stqarr li:

In March 1998 I signed an operations agreement with Resort Hotels Ltd. The company was represented by Mark Gatt who is the son of Philip Gatt. In terms of this agreement I am operating the Reef Bar at the San Julian Hotel, Dragonara Road, St Julians. On signing the agreement I paid the sum of LM20,000 as consideration, to Resort Hotels Ltd. I am also paying a daily sum of LM 45 as daily rent to Resort Hotels Ltd. The contract is for a period of five years… At the time I signed the agreement I was not aware that there was a court order which provided for the running of the San Julian Hotel by a court appointed official and that the company was prohibited from leasing or entering into agreements with respect to the hotel. I also state that neither Philip Gatt nor Mark Gatt ever mentioned anything in this respect.. I also know that there is a restaurant at the San Julian Hotel which is being run at the moment by a Maltese chap. Previously an Italian national was operating the restaurant.

Joseph Lagana xehed li hu direttur tal-Eurochange li ghandha *outlet* go San Julien Hotel. Fil-kumpanija mieghu hemm Mark Gatt it-tifel ta' Philip Gatt. Is-sur Leo Said qed jopera restaurant hemmhekk u l-bar qed imexxieh Stephen England.

KONSIDERAZZJONIJIET

Illi mill-provi prodotti, mhux kontradetti, jirrizulta li l-intimati kisru l-ordnijiet tal-Qorti fuq indikati.

Dwar is-sottomissjoni tal-intimati li personalment m'humiex responsabbili ghal allegat disprezz, il-Qorti tirrileva li l-indoli tal-procedura prezenti hija wahda tali li tirrikjedi li l-persuni responsabbili jkunu mharrkin personalment ankorke' relativament ghal agir jew operat maghmul taht l-isem tas-socjeta' li taghha huma diretturi (ara f'dan is-sens is-sentenza App Demanuele vs Azzopardi et dec 27.6.97).

Ghalhekk hemm lok ghas-segwenti provvediment.

DECIZJONI

Ghal dawn il-motivi l-Qorti tiddeciedi billi tordna lir-Registratur biex zmien xahar mill-lum jibda procediment kontra l-intimati taht l-artikolu 1003A tal-Kap 12 ghal disprezz lejn l-awtorita' tal-Qorti billi dawna ma qaghdux ghall-ordnijiet moghtija lilhom permezz tad-degrieti fuq imsemmija tal-10 ta' Novembru, 1995 u 9 ta' Mejju, 1997.

Bl-ispejjez kontra l-intimati.

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

Frankie Mercieca
DEPUTAT REGISTRATUR