



**QORTI TAL-MAGISTRATI  
(GHAWDEX) GURISDIZZJONI SUPERJURI**

**MAGISTRAT DR.  
ANTHONY ELLUL**

Seduta ta' l-14 ta' Lulju, 2008

Citazzjoni Numru. 37/2008

Edward Vella

Vs

Julie Vella

The Court,

Having seen the sworn application filed on the 16th April 2008 by plaintiff wherein he claimed that:-

By a public deed dated 21st December 2007 published in the acts of Notary Dr. Paul Pisani, parties concluded a consensual separation (fol. 4). In terms of the contract the parties agreed that both of them retained the right to reside in the matrimonial home 45, Triq Santa Lucija, Santa Lucija, Gozo until the property is sold.

Between the 11th April 2008 and 14th April 2008 the defendant changed the lock of the matrimonial home

without informing the plaintiff and is prohibiting the defendant from exercising his rights in terms of the contract of separation of the 21st December 2007. The defendant therefore committed a violent and clandestine spoliation.

The plaintiff therefore requested the Court:-

1. To declare and decide that the defendant committed a spoliation.
2. To condemn the defendant to place the plaintiff back into possession of the above-mentioned property by delivered a copy of the key.
3. Establish a short and fixed period within which defendant is to deliver a copy of the key to the plaintiff.
4. In default, to authorize the plaintiff to do all that is necessary to regain possession of the matrimonial home at the expense of the defendant.

The defendant contested the plaintiff's claims (fol. 14) on the basis that the elements for a case of spoliation did not subsist, and the plaintiff was not dispossessed from the property and he had access to the matrimonial home and has a copy of the keys. Furthermore, he is still making use of the address as his residence.

Having heard the evidence and seen the note of admission filed by the defendant on the 27th June 2008 (fol. 22).

The Court decides the case in favour of the plaintiff and declares that the defendant committed a spoliation when she changed the locks of the main door and garage door of the matrimonial home. The defendant is therefore ordered to deliver, within ten (10) days from today, to the plaintiff a copy of the keys of the main door and garage door of the matrimonial home 45, Triq Santa Lucija, Santa Lucija, Gozo. In default the defendant is authorized to effect the necessary works to regain possession of the matrimonial home, with the assistance and supervision of Vincent Ciliberti.

Kopja Informali ta' Sentenza

All costs against the defendant.

**< Sentenza Finali >**

-----TMIEM-----