MALTA

QORTI CIVILI
(SEZZJONI TAL-FAMILJA)

ONOR. IMHALLEF
ANNA FELICE

Seduta ta' l-14 ta' Dicembru, 2010

Citazzjoni Numru. 204/2009

A B C

-vs-

D E F

Il-Qorti:

Rat ir-rikors guramentat ta' A B C fejn din, wara li ppremettiet:

Illi l-attrici u l-konvenut izzewgu fid-19 ta' Dicembru 2003, fir-Registru Pubbliku fil-Belt Valletta; kif jindika c-certifikat anness bhala Dok. A, u minn dan iz-zwieg ma kellhomx tfal;

Illi dan iz-zwieg gie skritt fir-registru tar-Registru Pubbliku bhala Att taz-Zwieg Numru 2125 tas-sena 2003;

Illi l-kunsens tal-partijiet kien ivvizzjat b'difett serju ta' diskrezzjoni ta' gudizzju fuq il-hajja mizzewga, u fuq id-drittijiet u d-dmirijiet essenzjali taghha, jew b'anomalija psikologika serja li ghamlitha impossibbli ghall-partijiet li jaqdu l-obbligazzjonijiet essenzjali taz-zwieg u dan ai termini tal-artikolu 19 [1d] tal-Kap. 255 tal-Ligijiet ta' Malta;

Illi l-kunsens tal-konvenuta kien ivvizzjat ukoll minhabba l-eskluzjoni pozittiva taz-zwieg innifsu jew ta' wiehed jew aktar mill-elementi essenzjali tal-hajja mizzewga, u tad-dritt ghall-att taz-zwieg u dan ai termini tal-artikolu 19 [1f] tal-Kap. 255 tal-Ligijiet ta' Malta;

Illi l-konvenut irrifjuta li jikkonsma z-zwieg u dan ai termini tal-artikolu 19 A [1] tal-Kap. 255.

Illi minhabba r-ragunijiet premessi, iz-zwieg bejn il-kontendenti huwa null u bla effett fil-ligi.

Ghaldaqstant, l-attrici titlob sabiex din l-Onorabbli Qorti joghgobha:

Tiddikjara u tiddeciedi illi z-zwieg kuntrattat bejn il-kontendenti fl-10 ta' Novembru 1996, huwa null u bla effett fil-ligi ai termini tal-Artikolu 19 [1d] u 19 [1f] tal-Kap. 255 tal-Ligijiet ta' Malta.

Tordna li dina n-nullita' tigi registrata fuq l-att taz-zwieg relattiv fuq indikat.

Bl-ispejjez kontra l-konvenuta li minn issa tibqa' ngunta ghas-subizzjoni.

Rat id-dokumenti esibiti.

Rat li, ghalkemm debitament notifikat bl-atti tal-kawzi, il-konvenut ghazel li ma jwegibx.

Rat l-affidavit prodotti.

Ikkunsidrat illi l-attrici, f'din il-kawza hija ta' nazzjonalita' Filippina. Iltaqghet mal-konvenut f'Malta, u wara ftit zmien

li beda juri interess fiha, accettat li tizzewgu. Il-partijiet qatt ma ghexu flimkien u z-zwieg qatt ma gie kkunsmat.

I J, l-unika persuna verament midhla tal-attrici tixhed hekk dwar is-sitwazzjoni:

“I remember that on the wedding day we went out to lunch after the ceremony in St. Julians and after the lunch I thought that she was leaving with him, though to my surprise, everything changed at the last minute and A came back home with me. She never ever left home and remained living with me all the time. He never ever slept here and A slept here daily. I do not know anything about their sex life though she says that she never ever had sex with him and that her marriage was never consummated”.

L-attrici nnifisha tghid hekk:

“By time after, about six months, he spoke of marriage and I thought that this would bring an end to my worries about my stay here in Malta so I obliged. He said that I would live in his place in Valletta so in fact I also changed my Identity Card to this address so that everything would be according to law. He, however, never ever took me to see this place and in fact till today I have never seen it. He used to live with his sister in Gzira and even there he never took me. I am just repeating what he used to tell me. I remained living with I J all throughout my stay here in Malta.

Well the day arrived when we got married at the Public Registry on the 19th December 2003. I must admit, however, that there was no marriage at all because immediately he changed his mind and in fact, after the marriage ceremony we went to lunch to celebrate in a restaurant in St. George’s Road, St. Julians. With us there was my witness G H who was the nanny of the child of I J and I J. Today, G is today living in the UK and has taken up the residence there. After the lunch, Frank decided that I should go back with I until the place in Valletta was ready and that he would come to see me regularly. I immediately thought there was something wrong but I

wanted to give it all a chance. He made no effort at all and in fact hardly ever came to see me. I remained working just like before and my only consolation was my daily discussions with I J. I J is the managing Director of the company that employed me. She too is single and thus we became friends.

Frank never provided a home for me and thus we always lived seperately, we never had any sex. We just had a very platonic relationship. Our marriage was never consummated".

Il-Qorti m'ghandha ebda raguni, f'dawn ic-cirkostanzi, li tiddubita l-kelma tal-attrici li z-zwieg qatt ma gie kkunsmat.

Fic-cirkostanzi, ghaldaqstant, il-Qorti taqta' u tiddeciedi billi:

Tiddikjara li z-zwieg kontrattat bejn il-partijiet fid-19 ta' Dicembru 2003, huwa null u bla effett.

L-ispejjez tal-kawza jibqghu bla taxxa bejn il-partijiet.

Moqrija.

< Sentenza Finali >

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