MALTA

QORTI CIVILI
PRIM' AWLA

ONOR. IMHALLEF
MARK CHETCUTI

Seduta tal-5 ta' April, 2011

Citazzjoni Numru. 51/2011

Derek Arthur White u martu Maria Carmen White

vs

Bartholomew Sant u martu Helen sive Eileen Sant

Il-Qorti,

Rat ir-rikors guramentat tal-atturi tad-19 ta’ Jannar 2011 li jghid hekk:

1. Illi permezz ta’ kuntratt fl-atti tan-Nutar Dottor Clyde La Rosa datat 17 ta’ Marzu, 1992 (Dok. A) il-konvenut Bartholomew Sant xtara minghand il-kumpannija Turista Limited *“the flat numbered internally three (3) of a block of four flats named ‘Murio Court’ in a new and unnamed street in the district ‘Tal-Erba’ Mwiezeb’ at Upper Bugibba, limits of Saint Paul’s Bay, bordered on the North by property of George Houghton or his successors in title, on the Northwest by the said new street and on the South by*

property of the successors in title of Carmel Anthony Baluci and others as subject to the annual and perpetual subground rent of twenty five Maltese liri (Lm25) payable yearly in advance on the first (1st) day of June, of each year and revisable after fifty (50) years from the twentieth (20th) January, nineteen hundred and sixty seven (1967), in terms of the original deed of emphyteusis in the records of Notary Doctor George Cassar and namely 'in order to maintain the equivalence of the pound sterling and the basis shall be the cost of living index as related to basic year nineteen hundred and sixty seven (1967)', having in common with the underlying flat the cesspool – with all its rights and appurtenances including the overlying airspace and with vacant possession";

2. Illi dan il-flat illum igib l-indirizz 15, Murio Court Flat 3, Triq ic-Caghaq, San Pawl il-Bahar;

3. Illi ghalkemm il-konvenut Bartholomew Sant kien deher fuq l-att tal-akkwist fuq imsemmi f'ismu proprju huwa kien fil-fatt agixxa bhala mandatarju prestanome ghan-nom u fl-interess tal-atturi Derek Arthur White u Maria Carmen White (li tigi oht l-istess konvenut Bartholomew Sant) tant li l-prezz tal-akkwist u l-ispejjez kollha konnessi max-xiri ta' l-immobbli thallsu mill-atturi Derek Arthur u Maria Carmen konjugi White li dejjem uzawh bhala r-residenza taghhom – kif jirrizulta mill-karta tal-identita rispettiva taghhom (Dok. C u Dok. D);

4. Illi fil-15 ta' Novembru, 2010 l-atturi interpellaw lill-konvenuti permezz ta' ittra ufficjali (Dok. B) sabiex fi zmien jumejn jersqu ħalli jiddikjaraw b'mod ufficcjali li l-imsemmi fond 15, Murio Court Flat 3, Triq ic-Caghaq, San Pawl il-Bahar huwa proprjeta taghhom (cioe proprjeta tal-atturi) u mhux tal-konvenuti Bartholomew u Helen sive Eileen konjugi Sant;

5. Illi nonostante li l-konvenuti Bartholomew u Helen sive Eileen konjugi Sant gew debitament notifikati bl-imsemmija ittra ufficcjali fit-18 ta' Novembru, 2010 huma baqghu inadempjenti;

6. Illi ghalhekk kellha ssir din il-kawza;

7. Illi l-attrici Maria Carmen White taf b'dawn il-fatti personalment;

Jghidu ghalhekk il-konvenuti ghaliex din l-Onorabbli Qorti m'ghandhiex:

i. Tiddeciedi u tiddikjara li ghalkemm fuq il-kuntratt tas-17 ta' Marzu, 1992 fl-atti tan-Nutar Dottor Clyde La Rosa (Dok. A) li permezz tieghu gie akkwistat *"the flat numbered internally three (3) of a block of four flats named 'Murio Court' in a new and unnamed street in the district 'Tal-Erba' Mwiezeb' at Upper Bugibba, limits of Saint Paul's Bay, bordered on the North by property of George Houghton or his successors in title, on the Northwest by the said new street and on the South by property of the successors in title of Carmel Anthony Baluci and others as subject to the annual and perpetual subground rent of twenty five Maltese liri (Lm25) payable yearly in advance on the first (1st) day of June, of each year and revisable after fifty (50) years from the twentieth (20th) January, nineteen hundred and sixty seven (1967), in terms of the original deed of emphyteusis in the records of Notary Doctor George Cassar and namely 'in order to maintain the equivalence of the pound sterling and the basis shall be the cost of living index as related to basic year nineteen hundred and sixty seven (1967)', having in common with the underlying flat the cesspool – with all its rights and appurtenances including the overlying airspace and with vacant possession"* (illum15, Murio Court Flat 3, Triq ic-Caghaq, San Pawl il-Bahar) deher il-konvenut Bartholomew Sant f'ismu proprju bhala l-kumpratur huwa kien fil-fatt akkwista l-imsemmi immobbli bhala mandatarju prestanome ghan-nom u fl-interess ta' ohtu l-attrici u zewgha l-attur Derek Arthur White;
ii. Konsegwentement tiddeciedi u tiddikjara li l-atturi Derek Arthur u Maria Carmen mizzewgin White huma il-proprjetarji tal-fond 15, Murio Court Flat 3, Triq ic-Caghaq, San Pawl il-Bahar;
Bl-ispejjez, komprizi dawk tal-ittra ufficcjali tal-15 ta' Novembru, 2010, kontra l-konvenuti li minn issa huma ingunti in subizzjoni.

Rat illi rikors guramentat gie debitament notifikat lil intimati li naqsu li jipprezentaw risposta u hekk baqghu kontumaci;

Semghet ix-xhieda tal-konvenuti fejn iddikjaraw bil-gurament taghhom illi huma jammettu li l-akkwist tal-

imsemmi appartament sar ghan-nom u fl-interess tal-atturi u illi fil-fatt jappartjeni lill-atturi qua proprjetarji tal-istess;

Ezaminat l-atti tal-kawza;

Billi mill-provi senjatament l-ammissjoni tal-konvenuti u d-dikjarazzjoni guramentata tal-atturi t-talbiet dedotti fir-rikors jirrizultaw gustifikati;

Taqta’ u tiddeciedi billi tilqa’ t-talbiet tal-atturi kif dedotti fir-rikors, bl-ispejjez kontra l-intimati.

< Sentenza Finali >

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