

Kopja Informali ta' Sentenza



**QORTI CIVILI  
(SEZZJONI TAL-FAMILJA)**

**ONOR. IMHALLEF  
ANNA FELICE**

Seduta tal-25 ta' Ottubru, 2011

Citazzjoni Numru. 106/2010

**A B C**

**-vs-**

**D E**

Il-Qorti:

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

Illi l-partijiet izzewgu fl-erbgha (4) ta' Lulju tas-sena elfejn u tlieta (2003) kif jirrizulta mic-certifikat taz-zwieg anness u mmarkat Dok. A;

Illi l-partijiet ma ghadhomx tfal;

Illi l-kunsens tal-partijiet ghaz-zwieg imsemmi kien vizzjat b'difett serju ta' diskrezzjoni ta' gudizzju fuq il-hajja

Pagna 1 minn 4

Qrati tal-Gustizzja

Kopja Informali ta' Sentenza

mizzewga, jew fuq id-drittijiet u dmirijiet essenzjali taghha, u/jew b'anomalija psikologika serja li taghmilha impossibli ghalih li jaqdi l-obbligazzjonijiet essenzjali taz-zwieg;

Illi, ghalhekk, iz-zwieg celebrat bejn il-partijiet huwa null ghall-effetti kollha tal-ligi;

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

Tiddikjara li z-zwieg celebrat bejn il-kontendenti tal-erbgha (4) ta' lulju tas-sena elfejn u tlieta (2003) huwa null u minghajr effetti fil-ligi.

Bl-ispejjez kontra l-intimat li hu minn issa ingunt in subizzjoni.

Rat li, ghalkemm debitament notifikat, D E ghazel li ma jwegibx ghall-kawza.

Rat id-dokumenti esebiti.

Rat l-affidavit prodotti.

Rat il-verbal tas-seduta tad-9 ta' Novembru 2011, fejn ir-rikorrenti ddikjarat li ma kellhiex provi aktar u l-kawza giet differita ghas-sentenza.

Rat imbaghad ir-rikors tal-istess, datat 20 ta' Jannar 2011, li permezz tieghu talbet is-sospensjoni tal-prolazzjoni tas-sentenza sabiex jigi prodott l-intimat biex jixhed in subizzjoni, rikors li gie milqugh minn din il-Qorti.

Semghet lil D E jixhed in subizzjoni.

Jirrizulta mill-provi, li l-partijiet iltaqghu meta r-rikorrenti kellha disgha u ghoxrin sena u l-intimat kellu ghoxrin sena. L-intimat li huwa ta' nazzjonalita' Ingliza, kien gie Malta biex jipprova jahrab minn problemi ta' droga li kellu fl-Ingilterra. F'Malta baqa' ma organizzax hajtu tant li spicca bla dar, bla xoghol u bla flus. Ir-rikorrenti, li kellha darha, dahhlitu jghix maghha. Meta baqa' ma refa' ebda responsabilita' ghalih innifsu, il-partijiet iddecidew bl-

## Kopja Informali ta' Sentenza

ghagglja li jizzewgu sabiex hu jkun jista' jkollu permess jahdem. Mhux talli ma gietx ameljorata s-sitwazzjoni, talli marret ghall-aghar. Sahansitra, ir-rikorrenti skopriet li kien "addicted" ghall-pornografija. Baqa' ma riedx jahdem jew jghin b'xi mod lil dik li issa kienet saret martu. Anzi, ta bis-sieq id-diversi opportunitajiet li ltaqa' magghom. Sahansitra missierha offrielu impjeg u dan irrifjutah.

Dawn ic-cirkostanzi huma kollha konfermati mix-xhieda prodotta u sahsansitra ammessi mill-intimat fix-xhieda li ta viva-voce quddiem din il-Qorti.

Fix-xhieda taghha, ir-rikorrenti tghid hekk:

*"When I met D he was a 'lost soul', he had no money or job. I took him in against my better judgement because he had nowhere to stay and I felt sorry for him. It was early in our courting, eventually he seemed to be in love with me.*

*D was always pretty lazy, he rarely worked or provided towards the expenses of the home. This he said was due to the fact that he had no work permit. He was often asked to play his guitar and sing in different places but he often refused even though it paid good money because he was insecure. We started arguing about money constantly and I was pressurizing him to find a job and start contributing towards the expenses. This I found very distressing and after a few months we agreed to marry so that we could be together and he could have a work permit and contribute to the household."*

L-intimat jghid:

*"I had a lot of problems at the time, I met A in a bar and got talking to her. I was a very needy person and A was a very giving person. Needy meaning emotionally needy. I had recently stopped taking heroin. It was a bad time. A was very comforting. We were together for quite some time before we were married. In fact we spent more time before than after marriage. The marriage lasted only a few months. I never felt married. My heart was never in it from the start. I just went along with it. I did not have a serious*

Kopja Informali ta' Sentenza

*job when I met A. I could have been working but just part time. I was never steadily employed during the time I was with A.”*

Fid-dawl ta' dak li rriteniet il-Qorti tal-Appell fil-kawza “**Janet Portelli vs Victor Portelli**”, (deciza fl-14 ta' Awissu, 1995):

*“It seems that discretion of judgement or maturity of judgement can be lacking, if any one of the following three conditions or hypotheses is verified: (1) when sufficient intellectual knowledge of the object of consent to be given in entering marriage is lacking; (2) when the contracting party has not yet reached a sufficient amount of reflection that is proportionate to the conjugal affair, that is a critical reflection apt for nuptial; (3) or finally when either party contracting marriage is deprived of internal freedom, that is, that capacity deliberate with sufficient weighing of the motives and, on the part of the will, freedom (autonomia) from all force from within.”*

Din il-Qorti tqis li r-rikorrenti rnexxielha tipprova li z-zwieg taghha mal-intimat kien tassew null ai termini tal-Kap. 255 Art. 19(1)(d).

**Ghal dawn ir-ragunijiet, il-Qorti taqta' u tiddeciedi billi:**

Tilqa' t-talba tar-rikorrenti u tiddikjara li z-zwieg kontrattat bejn il-partijiet fl-4 ta' Lulju 2003 huwa null u bla effett.

L-ispejjez jibqghu bla taxxa bejn il-partijiet.

**< Sentenza Finali >**

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