QORTI TAL-MAGISTRATI (MALTA)

SEDE CIVILI

MAGISTRAT : DR DENNIS MONTEBELLO B.A. LL.D.

SEDUTA TA' NHAR IL-GIMGHA 8 TA' FRAR 2002

Avviz Nru 876/99DM

Maltacom p.l.c.

vs

John Mary Cardona

Il-Qorti,

Rat l-avviz permezz ta' liema l-atturi talbu l-kundanna tal-konvenut sabiex jhallas is-somma ta' tmien mija u sebgha u ghoxrin lira maltin u sitta u tletin centezmu (Lm827.36) rapprezentanti ammont dovut ghal-hlas ta' kiri ta' servizz telefoniku u ghal telefonati relatati ghall-post numru 108/109, St George's Road, Paceville bin-numru 376239.

Bl-ispejjez tal-presenti u bl-ispejjes tal-ittra ufficjali tad-19 ta' Ottubru 1998, lghall-hlas ukoll l-imghax legali kontra l-konvenut li gie ngunt ghas-subizzjoni..

Rat in-nota tal-eccezzjonijiet tal-konvenut John Mary Cardona fejn eccepixxa illi:

1 It-talbiet tas-socjeta attrici huma nfondati fil-fatt u fid-dritt u ghandhom jigu michuda bl-ispejjes peress illi l-esponenti mhuwiex responsabbli u ma ghamilx uzu mis-servizzi reklamati mis-socjeta attrici, stante illi kif diga' giet infurmata s-socjeta attrici, l-esponenti kien gie zgumbrat mill-fond relattivi f'Jannar 1995, kif ser jirrizulta waqt it-trattazzjoni tal-kawza.

2 Salvi eccezzjonijiet ohra.

Semghet ix-xhieda bil-gurament;

Rat id-dokumenti esebiti;

Rat l-atti kollha tal-process; u

Ikkunsidrat:-

Illi l-konvenut m'huwiex qieghed jikkontesta li effettivament kien hu li applika u ottjena is-servizz telefoniku minn ghandi u lanqas ma jikkontesta l-korrettezza tal-konteggi dwar l-ammont mitlub bhala dovut in konnessjoni mas-servizz moghti mill-atturi.

Huwa jikkontesta t-talba attrici billi jsosstni li kien gie zgumbrat fit-12 ta' Jannar 1995 b'ordni tal-Qorti mill-fond fejn gie stallat is-servizz. Ghalhekk m'ghamel ebda uzu mis-servizz wara t-12 ta' Jannar 1995 u jsosstni li kien hallas dak kollu li kien dovut ghall-uzu li ghamel qabel dik id-data.

Mill-kontijiet ezibiti mill-atturi jirrizulta li l-parti sostanzjali mill-ammont dovuti tirreferi ghall – perijodu ta' qabel Frar 1995 meta l-konvenut kien ghadhu fil-pussess tal-fond in kwitjoni ghalhekk kien jispetta lill-konvenut li jipprova huwa stess il-hlas allegat minnhu.

Ghal dak li jirrigwarda kera u'jew uzu ghall-perijodu wara Jannar 1995 hija applikabbli r-regola 32 tar-Regolamenti maghmula that it-Telemalta Corporation Act li baqghu applikabbli bl-operat ta' Telecommunication (regulation) Kap.399 li jipprovdi fl-Artikolu 36 (1) "All regulation and other subsidiary legislation made under the Telemalta Corporation Act shall remain in force and shall have effect as if made under this Act and shall for all effects and purposes be treated accordingly".

Ir-Regolament rilevanti, numru 32 jipprovdi hekk:

(1) A subscriber shall not, except with written permission of the Chairman assign, dispose of, or part with, the telephone service provided to him under these regulation, or assign or dispose of, or part with, any benefit or advantage under his agreement.

(2) Where owing to the change of ownership, lease, tenancy or occupation of any premises, such premises cease to be qualified as a subscriber's premises in respect of a particular person, such person shall notify the Chairmani in writing within severn days of such change, and the person who thereby enters into the ownership. Lease, tenancy or occupation of the premises shall likewise, within the said

period, notify in writing the Chairman who may either cause the installation to be removed or allow the said latter person to retain it against the payment of the appropriate charges.

(3) If the provisions of paragraph (2) of this regulation are not complied with, then, saving any other right or remedy competent to the Chairman the subscriber and the new owner, lessee, tenant or occupier, as the case may be, shall be jointl7y and severally liable for any charges and for any other moneys that may be due for rentals, calls, service and cost of any damage that may be or may become due.

Ghalhekk jispetta lill-konvenut li jijpprova li huwa kien effettivament avza bil-miktub ir-rilaxx tal-pussess tieghu lill-atturi.

Billi lanqas sin il-prova ma saret u jirrizulta li l-konvenut lanqas wara n-notifika b'ittra ufficjali ma ghamel id-debita dikjarazzjoni, tirrespingi l-eccezzjonijiet sollevati mill-konvenut u tilqa t-talba attrici u tikkundanna lill-istess konvenut sabiex ihallas is-somma ta' tmien mija u sebgha u ghoxrin lira maltin u sitta u tletin centezmu (Lm827.36) rapprezentanti ammont dovuti ghal-hlas ta' kiri ta' servizz telefoniku u ghal telefonati relatati ghall-post numru 108/109, St. George's Road, Paceville bin-numru 376239, salv kull dritt tieghu kontra terzi 'si et quantenus', bl-imlghax legali b'effett mis-26 ta' Ottubru 1998.

Bl-ispejjes kontra l-konvenut.

Mag Dr D Montebello B A LLD

S. Farrugia
Dep Reg
Civ32