



TRIBUNAL GHAL TALBIET ZGHAR

**GUDIKATUR DR.
YANA MICALLEF STAFRACE**

Seduta tat-28 ta' Novembru, 2012

Talba Numru. 415/2009

Danrea Ltd C37151

vs

Sarah Jane Inguanez ID 5416A

It-Tribunal,

I PRELIMINARI

Ra li t-TALBA hi dwar hlas ta' tlett elef, tnejn u disghin Ewro tmienja u sebghin centezmi (€3,092.78c) dovuti ghal xoghol u attrezzaturi ordnati mill-konvenuta fil-fond San Antonio Mansions, flat 3, Triq Liedna, Fgura – skond l-anness Dok A. Bl-ispejjes u mghaxijiet.

Ra r-RISPOSTA li l-konvenuta m'ghandha xejn xi thallas ghax hallset l-intier miftiehem. Bla pregudizzju ghal dan, ziedet li jekk hemm xi flejjes ghadhom dovuti, minn dan ghandhom jitnaqqsu s-segventi:

- a) Il-valur biex ix-xoghol li ma sarx skond l-arti u ssengha jitranga.
- b) Spejjes inkorsi mill-konvenuta minhabba dwemien fix-xoghol

Ra li b'Nota tat-2 ta' Mejju 2012 (*a fol 70*) it-TALBA giet ridotta ghal elfejn, sitt mija wiehed u sittin Ewro (€2,621.00c)

II PROVI

1. Fl-ewwel lok jinghad li, fuq talba tal-konvenuta li l-proceduri jinzammu bil-lingwa Ingliza peress li din hi ta' Nazzjonalita Ingliza, it-TRIBUNAL, fl-udjenja tat-8 ta' April 2010 accetta din it-talba wara li s-socjeta' attrici rrimettiet ruhha. Ghalhekk is-suntegg ta' xi provi qed isir fl-ilsien Ingliz. Jinghad "ta' xi" ghax Michael Said l-ewwel xehed bl-Ingliz (*a fol 14*) u meta raga xehed ghamel hekk bil-Malti (*fol 71/72 u fol 74*)

2. **Michael Said** on behalf of plaintiff company stated that there was, between the parties, an original agreement in writing regarding the works to be done (Dok MS1 *a fol 20*) but then, on defendant's instructions there was an additional agreement; he could not recall whether it was in writing or not.

3. Regarding the first item on Dok A he stated that the amount of €582.34 represents the difference in price between the doors which were originally agreed upon and the doors which were actually installed at defendant's request. He also did over 100 eletrical points after defendant commissioned an interior designer who changed and increased the original points agreed upon. Actually, he is requesting payment for the points in excess of the 55 originally agreed upon. Regarding the item SHOWER CUBICLE ALUMINIUM, it refers to extra works which had to be done because the shower cubicle bought by defendant did not fit in the bathroom.

4. **Defendant** testified by means of an affidavit. She started by saying that defendant bought her apartment from Michael Said of Sanrea Ltd for LM47,000 and was assured by seller that by that sum "she would have the apartment finished, including interior furniture and doors, and I would incur no further costs whatsoever". They

signed the preliminary agreement on the 03.08.07 (*a fol 33*) and paid thereon LM1000 and the contract of sale (*a fol 35*) was published on the 11.01.08 and she paid thereon LM46,000. It was purchased in shell form and the price included all the finishes.

5. By the 21.07.08 Mr. Said was still asking her to tell him what remained to be done according to the agreement (Dok D *a fol 45*)

The TRIBUNAL notes that in this letter there is also a reference for *extras* and “some time has passed and we are still not paid”. Furthermore, he requests an appointment “so that these minor works can be carried out”. Said sent also a bill for extras (Dok E *a fol 46* – a copy of the document attached to the WRIT – *fol 2*)

6. Defendant stated that she refused to pay anything for “extra” works and Mr. Said never mentioned that he was going to do extra works. Had he mentioned that, she would have opposed. There was never any agreement, verbal or in writing, about extra works.

7. **Michael Said** raga xehed, wara li xehdet il-konvenuta. Ix-xhieda tieghi hi din id-darba fl-ilsien Malti. Insista li l-kawza hi fuq ix-xoghol “extra” kif elenkat fid-Dok A *a fol 2*. Tal-bqija thallas. B'riferenza ghad-Dok MS1 *a fol 18* gie ndikat lix-xhud li dan id-dokument hu inkomplet. Hawn wiegeb “nghid li ma nafx jekk jezistux”. Meta raga xehed, qal “jien ma sibt ebda karti ohrajn”.

III KONSIDERAZZJONIJIET

It-TRIBUNAL jikkunsidra kif gej:-

1. Hawnhekk ghandna kaz ta' bejgh/xiri ta' appartament u l-att tal-akkwist kien precedut minn konvenju li fuqu thallsu LM1,000. Il-prezz tal-akkwist tal-appartament thallas kollu u l-vertenza hi limitata biss ghal xoghol li s-socjeta' attrici ssejjahlu extra li dwaru, sfortunatament, ma sar ebda ftehim bil-miktub qabel is-socjeta' attrici tghid li esegwietu.

2. Hu mportanti li wiehed iqis kif il-konvenuta laqghet ghat-talba attrici. Ir-rkorriet ghal zewg linji difenzjonali jigifieri:

i) M'ghandha xejn xi thallas izjed ghax li kellha thallas hallsitu.

ii) Jekk (enfasi tat-TRIBUNAL) hemm xi flejjes dovuti, minn dawn ghandhom jitnaqqsu s-segwentii:-

a) il-valur biex ix-xoghol li ma sarx skond l-arti u s-sengha jitranga.

b) spejjes inkorsi mill-eccepjenti minhabba dewmien fix-xoghol.

3. It-TRIBUNAL jikkunsidra li l-konvenuta fir-RISPOSTA taghha qed turi certa titubanza. Il-fatt li t-tieni eccezzjoni hi mressqa “minghajr ebda pregudizzju” ghall-ewwel eccezzjoni, b'ebda mod ma jtaffi s-sinjifikat ta' dina t-titubanza.

4. Iktar: il-konvenuta qalet li jekk hi minnha dovut xi “quantum” minn dan (enfasi tat-TRIBUNAL) ghandhom jitnaqqsu l-ispejjes dwar xoghol mehtieg biex jigi rimedjat xoghol li ma sarx skond l-arti u s-sengha u dwar dewmien fit-tlestija tax-xoghol. Ma tridx tirrifletti wisq biex tinnota li l-konvenuta halliet dan kollu bhala semplici allegazzjonijiet bla l-icken dell ta' prova. Apparti l-assenza assoluta ta' xi kwantifikazzjoni ta' danni.

5. Ta min jinnota li Michael Said fl-ewwel xhieda tieghu semma li x-xoghol *extra* kellu jsir (almenu parti minnu) ghax il-konvenuta qabbdet “interior designer” wara li l-*electrical points* kienu ga lesti u dan esiga xoghol iehor. Jigi notat li l-konvenuta ma rribattietx din ix-xhieda. Anqas m'ghamlet dan dwar xi xoghol iehor li semma M. Said izda hadet linja kategorika li hallset ta' kollox fil-prezz miftiehem tal-akkwist tal-appartament.

6. Minn naha l-ohra M. Said ta spjegazzjonijiet konvincenti dwar id-Dok A *a fol 2*.

IV DECIZJONI

Wara li jqis dak kollu mfisser hawn fuq u wara li sama s-sottomissjonijiet tad-difensuri, it-TRIBUNAL jiddeciedi bili (1) wara li **jichad** l-eccezzjonijiet tal-konvenuta (2) **jilqa** t-talba attrici u **jikkundanna** lill-konvenuta biex thallas lis-socjeta' attrici il-*quantum* mitlub ta' elfejn, sitt mija wiehed u sittin Ewro (€2,621.00c) kif jirrizulta meta gie modifikat il-*quantum* originali mitlub fl-AVVIZ b'dana li dan il-*quantum* ghandu jithallas sa tletin jum mill-lum u jekk il-hlas ma jsirx fiz-zmien imsemmi jibda ghaddej l-imghax mill-wiehed u tletin (31) jum sal-jum tal-pagament effettiv u (3) **jiddeciedi** li, fic-cirkostanzi, il-kawza tibqa bla taxxa bejn il-partijiet

< Sentenza Finali >

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