



QORTI TA' L-APPELL

**ONOR. IMHALLEF
MARK CHETCUTI**

Seduta ta' l-20 ta' Gunju, 2013

Appell Civili Numru. 41/2012

Coronato Portelli

VS

L-Awtorita' ta' Malta dwar l-Ambjent u l-Ippjanar

Il-Qorti,

Rat ir-rikors tal-appell ta' Coronato Portelli tas-16 ta' April 2012 mid-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tad-29 ta' Marzu 2012 fejn giet milqugha l-eccezzjoni tal-Awtorita tar-res giudicata;

Rat ir-risposta tal-Awtorita li ssottomettiet li d-decizjoni tat-Tribunal hi gusta u timmerita konferma;

Rat l-atti kollha u semghet id-difensuri tal-partijiet;

Rat id-decizjoni tat-Tribunal li tghid hekk:

Ikkunsidra:

B'applikazzjoni tas-27 ta' Novembru 2006 - Full Development Permission - PA/7489/06 l-appellant, f'Dar ix-Xtilpa, Triq ix-Xabbata, Sannat (Ghawdex) talab:

"To sanction house."

Illi pernezz ta' rifjut tas-16 ta' Lulju 2008 id-Development Control Commission ikkonfermat ir-rifjut ghar-ragunijiet segwenti:

"1. The site lies beyond the 25 metre limit from the street alignment and outside the limits for development defined in the Gozo and Comino Local Plan (Map 14.11-C) and so it is located in an area which should remain undeveloped and open. The proposed development would run counter to the Local Plan and would represent unacceptable urbanisation in the countryside.

2. The proposed development conflicts with Structure Plan Policy SET11. which does not permit urban development outside existing and committed built-up areas. The development does not fall into a category of non urban development which may be permitted outside existing or committed built-up areas in accordance with Paragraph 7.6 of the Structure Plan.

3. The site lies in a Rural Conservation Area (as designated by the Structure Plan and indicated on the Key Diagram). The proposal does not comply with Structure Plan Policy RC02 which clearly states that no form of urban development will be permitted within Rural Conservation Areas.

4. The proposal does not fall within one of the categories of development, namely structures or facilities essential to agricultural, ecological or scenic interests, which may be permitted in Rural Conservation Areas where they meet the principles and criteria set out in Structure Plan Policy RC04. The proposal is not essential to, nor does it enhance agricultural, ecological, or scenic interests.

5. Structure Plan Policy RC04 provides that, particularly within Rural Conservation Areas, areas of scenic value will be protected and enhanced. The area in which the site is located is of considerable scenic value. The proposal would detract from this, and so it would conflict with Structure Plan Policy RC04.

6. The proposal runs counter to the adopted Policy and Design Guidance 'Development Outside Built-up Areas', 1995 (PLP 20). It would lead to urbanisation outside those areas specifically designated for urban uses in the Structure Plan - i.e. existing and committed built up areas and primary development areas, and so also runs counter to the Structure Plan strategy to channel development into existing and committed urban areas to constrain further inroads into undeveloped land.

7. The proposal runs counter to the Gozo and Comino Local Plan Policies GZ-LMDZ-1 and GZ-RLST-5 since new dwelling units are not acceptable outside the limits to development, even in relation to arable farming."

Illi l-Perit Saviour Micallef ghan-nom tal-appellant ressaq l-aggravji tieghu kif gej:

“(1) The garage and store lie practically within the development zone. (vide attached documents)

2) Applicant is a full time farmer tilling around 28 tumoli of land (vide attached documents). This may be confirmed by the agricultural department. Hence proposal is a permitted form of development in ODZ in accordance with par 7.6 of the structure plan and in accordance with section 22B of the Agriculture, farm Diversification and stables policy.

3) Infact applicant

a) is a registered arabale farmer tilling around 28tumoli of land

b) never owned another house anywhere else. In fact this house has served as the residence for him, his wife and 2

children for the past circa 17 years. An affidavit has already been presented.

c) The garage and store, lie practically within the development zone, with the small area lying outside being permitted as agricultural storage. In fact aforementioned policy allows for 40 sq.m for holdings greater than 20 tumoli.

d) The house proper is one storey high and has a floor area of circa 200 sq.m., that is within the 150 sqm at ground floor + 50 sqm at first floor normally allowed in ODZ areas.

e) the house is not located in the open countryside but abuts against the backyards of the surrounding houses. It has no visual as in fact it is lower than the abutting 3 storey developments in Font and moreover the development on both sides as recently approved in the local plan extends backwards much more than applicant's house. Hence proposal will have no visual impact."

Illi l-Awtorita ressqet il-kummenti taghha inter alia kif gej:

"DIRECTORATE'S COMMENTS ON GROUNDS FOR APPEAL

The proposed development is not acceptable since the proposed sanctioning regards residential development ODZ.

-- Dwellings for Arable Farmers

The proposal cannot be assessed in terms of a proposed dwelling for arable farmer ODZ since the applicant does not meet the criteria established in Policy 2.3B of the Policy Guidance: Agriculture Farm Diversification and Stables (2007). Dwellings for arable farmers ODZ may only be permitted provided that all of the criteria are satisfied. In particular the applicant fails to meet criteria 2, 3, 6 and 7 of Policy 2.3B. Meanwhile, even if it were to be proven that the applicant is registered as a full-time farmer, tilling considerable land in the area, the proposed

sanctioning would still conflict with Gozo and Comino Local Plan Policy GZ-RLST-5 which clearly states that "requests for the construction of new rural dwellings in Gozo or Comino will be refused".

-- Limits of development

The proposed sanctioning relates to residential development falling outside the limits of development as established by the Gozo and Comino Local Plan - see Map 14.11-C. The local plan retained the development boundary as previously set out in the Temporary Provisions Schemes, 1988. Through the Rationalisation of Development Boundaries process, however, the development boundary was shifted slightly Southwards as shown on site plan red 12A. The area within development zone, fronting the site, is however zoned as a Development Zone Edge and therefore a 25-metre maximum building depth limit is applicable. This is required by Local Plan Policy GZ-EDGE-3 and the Local Plans Interpretation Document Section A 1.4. The dwelling proposed to be sanctioned falls completely outside such limit. The processing of application PA2010/97 was based on the issue that the proposed development falls outside the development zone and this central issue remains unchanged. Therefore, the proposed sanctioning of the dwelling remains unacceptable.

-- Appeals Board decision PAB11/99

This application should be treated in the light of the decision issued by the Planning Appeals Board in PAB11/99 (relative to application PA2010/97). The Board considered the characteristics of the development and the impact of the building in question and concluded that there are no justifications why the proposed dwelling cannot be constructed within the limits of the development boundary. The Board concluded:

"Illi l-appellant ma ggustifikax b'mod soddisfacenti lil dan il-Bord illi l-izvilupp bl-ebda mod ma seta' jsir gewwa z-zona tal-izvilupp, u lanqas illi si tratta ta' "infill site" jew xi sit illi kien hemm xi "commitment" illi din tigi zviluppata bil-

mod propost, u dana seta' jikkostatah ukoll il-Bord waqt l-access tieghu. Fil-fatt, fuq il-parti ta' wara tas-sit, l-ambjent huwa strettament rurali, u dan il-Bord huwa tal-fehma illi l-accettazzjoni la' dan l-izvilupp, jista' jikkomprometti l-possibilita illi tigi riveduta b'mod komprensiv t-Temporary Provisions Scheme ghal din iz-zona kif provdut skond SET8 u BEN4;

Ghaldaqstant, dan il-Bord, wara li qies bir-regqa l-applikazzjoni in kwistjoni, ma jsib l-ebda gustifikazzjoni sabiex l-izvilupp propost jigi permess f'dan l-istadju f'zona klassifikata bhala ODZ;"

The proposed sanctioning in the current application refers to the same building which was subject of the previous application (PA2010/97). The drawings submitted in this application are identical to the drawings submitted in application PA2010/97 and therefore there are no new matters that affect the assessment of the proposal.

-- Urban development ODZ

The proposed residential development is a form of urban development and not one of the categories of development permitted outside the development boundaries. The site lies wholly outside the limits to development as defined by the Temporary Provisions Schemes. The Structure Plan strategy comprises a blanket prohibition of any form of urbanisation outside areas specifically designated for urban uses in the Plan. Any form of urbanisation outside these designated areas is prohibited. Thus this proposal runs counter to Structure Plan Policies SET11, RC02 and SET12 as there is no justification to depart from the Structure Plan provisions to prohibit residential development ODZ This is confirmed by Gozo and Comino Local Plan Policy GZ-LMDZ-1. The proposal does not qualify in terms of any of the criteria of PLP 20 regarding development outside built-up areas.

-- Visual impact

The proposed sanctioning would also have an adverse affect on the scenic value of the surroundings, as noted by the Planning Appeals Board during site inspection held

by the Board. Therefore, the proposal conflicts with Structure Plan Policy RCO4."

Illi in vista tal-eccezzjoni mressqa mill-Awtorita, dwar ir-res judicata tat-talba odjerna, l-Perit Robert Musumeci, ghan-nom tal-appellant, ressaq il-kummenti tieghu kif gej:

"1. Illi l-applikazzjoni PA7489/06 mertu ta' l-appell odjern si tratta ta' applikazzjoni 'to sanction house', liema applikazzjoni kienet rifjutata mill-Kummissjoni għall-Kontroll ta' l-Izvilupp nhar is-16 ta' Lulju 2008.

2. Illi huwa pacifiku li fuq l-istess sit odjern kienet giet intavolata applikazzjoni PA 2010/97 To erect house and garage. Din l-applikazzjoni kienet deciza mill-Planning Appeals Board fit-12 ta' Dicembru 2001.

3. Illi minn dak in-nhar tat-12 ta' Dicembru 2001 sal-lum, it-Temporary Provision Schemes kienu revkati u dahal fis-sehh il-Pjan Lokali (Gozo and Comino Local Plan; Molto piu, f'Jannar 2011 gie promulgat il-Kap. 504 tal-Ligijiet ta' Malta, li rrevoka għal kollox id-disposizzjonijiet tal- Kap. 356 tal- Ligijiet ta' Malta.

4. Illi huwa ritenut mill-gurisprudenza taghna, u wkoll minn diversi awturi, illi sabiex tirnexxi l-eccezzjoni tar-res judicata, irid ikun hemm is-segwenti tliet rekwiziti: eadem res - l-istess oggett, eadem causa petendi - l-istess mertu u eadem personae - l-istess partijiet, liema tlitt elementi jridu jikkonkorru għax fin-nuqqas ma jistax jinghad li l-haga hija l-istess.

5. Illi huwa ben risaput li sabiex ikun hemm ir-res judicata l-Bord jifhem li jrid ikun hemm kollox l-istess sija mil-lat ta' applikant sija mil-lat ta' applikazzjoni u sija mil-lat ta' policies applikabbli. Dan il-principju jinsab assodat fis-sentenza tal-Planning Appeals Board tat- 30 ta' Ottubru 2000 fl-ismijiet "Joseph Difesa vs L-Awtorita' ta' Malta dwar l-Ambjent u l-Ippjanar", fejn dan il-Bord ta' l-Appell kien caħad l-eccezzjoni tar-res judicata bil-motivazzjoni generika illi għaladarba l-policies jinbidlu sena wara l-ohra ma hemm xejn x'jipprekludi lill-applikant milli jagħmel l-

applikazzjoni tieghu kif u meta jrid, u ghalhekk wiehed ikun inkorrett jghid li l-appell huwa a priori null billi jitrattata dwar res judicata.

6. Hawnhekk issir debitament riferenza ghas-sentenzi tal-Qorti ta' l-Appell fl-ismijiet "Matthew Vella vs l-Awtorita' ta' Malta dwar l-Ambjent u l-Ippjanar" (A.I.C. (RCP) - 30 ta' Marzu 2006), "Joseph Cutajar vs Kummissjoni ghall-Kontroll ta' l-Izvilupp" (A.I.C. (RCP) - 30 ta' Marzu 2006 u "Joseph Difesa vs Il-Kummissjoni ghall-Kontroll ta' l-Izvilupp" (A.I.C. (RCP), 26 ta' Mejju 2004) fejn inter alia inghad li "mill-gurisprudenza vigenti jirrizulta li l-kuncett ta' res judicata ma hijiex eskluza l-applikazzjoni tieghu f'kazijiet ta' zvilupp jekk jinkorru l-elementi ta' l-istess eccezzjoni, u cjoe (1) "eadem res"; (2) "eadem causa petendi"; u (3) "eadem personae", u jekk ic-cirkostanzi kollha inkluz il-policies applikabbli huma l-istess, iktar u iktar meta l-Bord ghandu funzjoni ta' tribunal kwazi gudizzjarju."

7. Fic-cirkostanzi odjerni jirrizulta li mhumix qed jippersistu l-istess oggezzjonijiet ghat-tieni darba, u dan peress li l-policies u ligijiet applikabbli inbidldu fit-trapass taz-zmien. Kif inghad fis-suespost, l-oggett li irid jigi deciz f'dan l-appell jinkwadra f'ambitu legali differenti minn dak li kien vigenti dak in-nhar meta giet deciza l-ewwel applikazzjoni u allura, fil-kaz odjern, l-eccezzjoni ta' res judicata ma tirriszultax assodata.

8. Illi tenedo kont tal-kunsiderazzjonijiet citati supra, l-esponenti jissottometti li l-principju ta' res judicata ma japplikax fil-kaz in ezami u dan peress li il-policies applikabbli fl-2001 u daww applikabbli illum mhumix l-istess. Meta jinbidlu l-policies, tinbidel l-optika (recte 'ottika') ta' konsiderazzjonijiet ta' ppjanar u l-izvilupp, li jaghmlu differenza ta' sostanza bejn zewg applikazzjonijiet li huma simili in sustanza.

9. Illi in fine allura jikkonsegwi li l-mod kif l-Awtorita trid tapplika l-eccezzjoni ta' res judicata huwa legalment u gudizzjarjament skorrett u ghalhekk l-esponenti jitlob lil

dan it-Tribunal sabiex jichad l-eccezzjoni sollevata mill-Awtorita u jipprosegwi bis-smigh ta' din il-kawza."

Illi permezz tas-Second Statement taghha, l-Awtorita ressqet il-kummenti taghha kif gej:

"The appellant in his note submitted 6th October 2011 is arguing that the res judicata is not applicable since the policies applicable at the time of the decision in PAB 11/99 are different than those applicable now. Therefore according to the appellant the current appeal does not possess one of the main criteria that constitutes the res judicata.

The Authority notes that whilst a new policy document regulating agriculture related developments has come into force, the Policy and Design Guidance - Agriculture, Farm Diversification and Stables (2007), the new policies do not change anything in the merits of the proposed development. The appellant did not qualify for a farmer's dwelling then and does not qualify now with the new policies.

This means that the concept of the res judicata still applies since the new policies referred to by the appellant do not change anything in the merits of the application that has been refused in PA 2010/97 by way of PAB11/99 as well as in this application."

Ikkunsidra ulterjorment:

B'applikazzjoni PA 2010/97 - Full Development Permission tas-27 ta' Mejju 1997, l-istess appellant fuq l-istess sit talab "biex tinbena dar u garage"; pero fil-paragrafu 4 ta' l-istess applikazzjoni "Location of proposed development" indika l-indirizz tar-residenza tieghu. "Dar ix-Xtilpa, Triq Xabbata, Sannat. Ir-ritratti - Red 3D fil-file juru zvilupp kompetat ta' residenza recintata b'hajt konfinanti imtarrag mibni b'gebel tal-franka.

Din l-applikazzjoni giet michuda fl-4 ta' Jannar 1999 - Red 30, fil-file PA 2010/97; sar appell, li gie michud mill-Bord

Kopja Informali ta' Sentenza

ta' l-Appell dwar l-Ippjanar, b'decizjoni tat-12 ta' Dicembru 2001 - sentenza li giet ikkonfermata mill-Qorti ta' l-Appell b'sentenza tat-28 ta' Mejju 2004.

L-applikazzjoni mertu ta' dan l-appell PA 7489/06 Full Development Permission, giet ipprezentata fis-27 ta' Novembru 2006, bil-proposta "to sanction house"

Ir-ritratti mmarkati Red 1E u 1F juru l-isqaq li jghati ghall-izvilupp mertu tal-applikazzjoni.

Fis-seduta tas-6 ta' Frar 2009, l-Awtorita eccepjet ir-res judicata billi l-istess appellant diga kellu rifjut b'decizjoni tal-Bord ta' l-Appell dwar l-Ippjanar tat-12 ta' Dicembru 2001 - u din d-decizjoni giet ikkonfermata mill-Qorti ta' l-Appell.

Fin-nota tieghu tas-6 ta' Ottubru 2011, l-Perit Robert Musumeci ghall-appellant, 'inter alia' iccita xi decizjonijiet dwar ir-rekwiziti tal-eccezzjoni u ssottometta li billi l-Policies tal-Awtorita biz-zmien jinbiddu, il-kaz in ezami mhux identiku ghal dak precedenti, u ghalhekk ir-rekwiziti tal-eccezzjoni m'humiex soddisfatti.

L-Awtorita, tirrikonoxxi l-fatt li minn meta giet ipprezentata l-ewwel applikazzjoni cjoe fis-27 ta' Marzu 1997, gie ppubblikat il-Pjan Lokali f'Lulju 2006, u l-Policy & Design Guidance: Agriculture Farm Diversification and Stables (2007), pero dawn ma kellhom l-ebda incidenza fuq iz-zoning tal-Area li kien u baqa' (ODZ) Outside Development Zone - Barra z-zona tal-Izvilupp.

Kif tajjeb gie rilevat mill-Awtorita, l-appellant l-anqas ma jikkwalifika ghall-zvilupp ta' 'farmer dwelling' fit-termini tal-istess Policy. L-appellant qatt ma effettivament ippropona farmer's dwelling anzi ippropona li jibni 'dar u garage', meta irrizulta li dawn kienu diga nbnew, u illi rrizulta li ghandha floor area ta' cirka 245m², u washroom sovrastanti.

L-Awtorita fir-rapport taghha ghamlet referenza ghal diversi Policies, li jipprojbixxu li jsir zvilupp urban barra z-

zona tal-izvilupp - partikolarment, l-Pjan ta' Struttura 1990; PLP 20 Policy and Design Guidance 'Development Outside Built up Areas' 1995; Gozo and Comino Local Plan 2006; Policy Guidance 'Agricultural Farm Diversification and Stable 2007 - u partikolarment l-Policies tal-Pjan ta' Struttura SET 11; SET 12; RCO 2 u RCO 4. Map 14-11-C, u 14-11-D tal-Gozo and Comino Local Plan li jindikaw s-sit bhala ODZ; u l-Policies G2 - EDGE-3; G2 - LMD2-1; G2-RLST-5.

L-appellant jikkontendi li parti mill-izvilupp jinsab fl-area desinjata ghall-izvilupp, u li bhala persuna li tahdem ir-raba jikkwalifika ghar-residenza f'dik il-lokalita.

Dan pero ma jirrizultax, billi ma saret l-ebda prova dwar i-income tal-appellant mix-xoghol tar-raba; Skond Policy 2.3B - (2) l-applikant ghall-3 snin qabel l-applikazzjoni jinhtieg li jkun qala' mhux anqas minn 623,294; jinhtieg li jahdem 30 tumoli ta' raba - ma jirrizultax li l-appellant ghandu 30 tumoli raba registrati f'ismu; li r-raba jrid ikun f'radius ta' 1 km u para (c), u skond l-para (7) ma tistax teccedi 200m². Il-propjeta tal-appellant ghandha area ta' 245m² cirka.

Ezaminati d-dettalji kollha rilevanti ghal dina l-applikazzjoni, irrizulta li ghalkemm hargu policies ohra bejn iz-zewg applikazzjonijiet, dawn bl-ebda mod ma incidew fuq iz-zoning tal-lokalita billi din kienet u baqghet barra z-zona tal-izvilupp.

Anke jekk fl-ahjar ipotezi ghall-appellant, l-applikazzjoni tigi kkunsidrata fil-kuntest tal-Policy Guidance Agriculture Farm Diversification and Stables 2007- ma jirrizultax li l-appellant jissodisfa r-rekwiziti hemm indikati.

Fic-cirkostanzi, tenut kont tal-fatt li sa minn 1997, l-appellant kien diga bena dak li ippropona li jibni, residenza barra z-zona tal-izvilupp - l-appell ma jimmeritax konsiderazzjoni favorevoli.

It-Tribunal ghalhekk qed jiddisponi minn dan l-appell billi jichad l-istess, jilqa' l-eccezzjoni tar-res gudicata sollevata

mill-Awtorita, u jikkonferma r-rifjut tal-Awtorita tas-16 ta' Lulju 2008 għall-applikazzjoni PA 7489/06.

Ikkunsidrat

L-aggravju tal-appellant hu wiehed semplici cioe illi t-Tribunal ma setax jilqa' l-eccezzjoni tar-res judicata billi wiehed mill-elementi tal-eccezzjoni cioe 'eadem causa petendi' kien nieqes.

Il-fatti li waslu għal dan l-appell kienu s-segwenti. L-appellant kien għamel applikazzjoni għal full development permission PA 2010/97 ta' bini ta' dar u garage f'Sannat Ghawdex. Din l-applikazzjoni giet rifjutata u giet konfermata mill-Qorti tal-Appell fit-28 ta' Mejju 2004. Fl-2006 permezz ta' din l-applikazzjoni l-appellant talab li jissanzjona l-binja li issa kienet minghajr permess. It-Tribunal jirrikonoxxi illi bejn l-ewwel u t-tieni applikazzjoni gie ppublikat il-pjan lokali fl-2006, u l-Policy and Design Guidance: Agriculture Farm Diversification and Stables (2007) pero izid lil dawn ma kellhom ebda incidenza fuq il-mertu billi l-propjeta baqghet f'sit ODZ.

It-Tribunal imbagħad ikompli jespandi fuq il-mertu nnifsu ta' din l-applikazzjoni biex jasal għal konkluzjoni illi din l-applikazzjoni xorta ma setghetx tigi milqugħa minhabba diversi policies ohra u provi ohra fil-mertu li t-Tribunal ikkunsidra. Fl-ahhar jikkonkludi li z-zoning baqa' l-istess kemm qabel u wara l-introduzzjoni ta' policies godda u billi fi kwalunkwe kaz lanqas setghu jigu sodisfati r-rekwiziti tal-policies il-godda, l-eccezzjoni tar-res judicata kellha tigi milqugħa.

Din il-Qorti, minghajr ma tikkonsidra dak li ssemma fuq il-mertu ta' din l-applikazzjoni mit-Tribunal, iqis illi t-Tribunal applika hazin l-elementi tar-res judicata in kwantu jolqot l-aggravju tal-eadem causa petendi.

Il-kompitu tat-Tribunal ma kienx li jikkunsidra l-mertu ta' din l-applikazzjoni u jekk jara li ma hu ser ibiddel xejn mill-applikazzjoni originarjament rifjutata (PA 2010/97) allura jilqa' l-eccezzjoni tar-res judicata. Dak li għamel it-Tribunal

hu li kkonsidra l-mertu li ma kienx il-kompitu afdat lilu fit-termini tas-sentenza li kellha tinghata u minghajr ma ta ebda opportunita lil appellant biex darba investigat il-mertu jkollu l-opportunita ta' smigh u appell mid-decizjoni fuq il-mertu, qabad u ddecieda l-eccezzjoni a bazi tal-fondatezza tal-applikazzjoni fuq il-mertu.

Il-Qorti tirraviza illi z-zewg applikazzjonijiet ghalkemm fuq l-istess sit ma kienux identici, l-ewwel wahda kienet ghal zvilupp u din prezenti ghal sanzjonar. In oltre bejn iz-zewg applikazzjonijiet dahlu fis-sehh pjan lokali u policies li ma kienux ezistenti fl-ezami tal-ewwel applikazzjoni. Minghajr pregudizzju ghal kull differenza jew nuqqas ta' differenza bejn dak ezistenti qua policies bejn l-ewwel u t-tieni applikazzjoni, il-mandat tat-Tribunal kien li jesprimi ruhu jekk kienx hemm tibdil ta' cirkostanzi materjali li kien jaghti lok ghal smigh fuq il-mertu ta' din l-applikazzjoni. La darba l-istess Tribunal irrikonoxxa li kien hemm tibdil fic-cirkostanzi, messu waqaf hemm ghax il-mertu ma baqax identiku ghal dak fl-applikazzjoni originali fid-dawl tat-tibdil ta' policies. Messu sema' l-provi fuq il-mertu u mbaghad iddecieda fuq il-mertu bl-opportunita ta' appell ghat-tellief. F'dan il-kaz it-Tribunal naqas milli josserva dan kollu bi pregudizzju potenzjali ghad-dritt ta' smigh xieraq u audi alteram partem. Il-fatt li t-Tribunal seta' wasal ghall-istess konkluzzjoni tal-ewwel applikazzjoni ma jintitolax lit-Tribunal jaghmel short cut kif ghamel.

Decide

Ghalhekk il-Qorti taqta' u tiddeciedi billi tirrevoka d-decizjoni lit-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tad-29 ta' Marzu 2012 billi ssib li l-elementi ta' res judicata ma gewx sodisfatti f'dak li jikkoncerna l-eadem causa petendi u tirrinviya l-atti quddiem it-Tribunal biex jisma' u jiddeciedi fuq il-mertu tal-appell migjub quddiemu. L-ispejjez jithallsu mill-Awtorita.

< Sentenza Finali >

Kopja Informali ta' Sentenza

-----TMIEM-----