MALTA

QORTI CIVILI

PRIM' AWLA

ONOR. IMHALLEF

ANNA FELICE

Seduta tad-29 ta' April, 2015

Citazzjoni Numru. 157/2014

Josephine Camilleri xebba (I.D. 381335M), Maddalena mart John Debono (I.D. 804339M), Victoria mart George Gatt (I.D. 386943M), Theresa mart Carmel Falzon (I.D. 467645M) u Angela mart Joseph Naudi (Pass. No. JP223640), ahwa Camilleri, Reverendu Dun Emanuel Camilleri (I.D. 688261M), f'ismu proprju u f'isem hutu Silvio (I.D. 567159M), Joseph Mary sive Jesmond (I.D. 401665M), il-Perit Joseph (I.D. 533160M), Carmen (I.D. 29163M) u Maria Victoria sive Marvic Bartolo (I.D. 250967M), ulied il-mejjet Joseph Camilleri;

Anthony (I.D. 337735M) u Victoria armla ta' Joseph Galea (I.D. 653148M), Pauline mart Simon Bonnici (I.D. 328050M) f'isimha proprju u bhala kuratrici f'isem ohtha Maddalena armla ta' Paul Cortis (I.D. 502044M),

debitament awtorizzata, ahwa Camilleri; flimkien ma' Victor sive Hector (I.D. 490463M), Emanuel (I.D. 398555M), Josephine Anne sive Joanne Gatt (I.D. 94772M), Maria Dolores Mangion (I.D. 303859M), Josephine sive Joyce Schembri (I.D. 484361M) ahwa Camilleri, ulied il-mejjet Joseph Camilleri, u ommhom Maria Anna Camilleri (I.D. 817836M);

Joseph (I.D. 752947M), Carmen mart Lawrence Mamo (I.D. 232949M), Emanuel (I.D. 559751M), Salvatore (I.D. 494252M), Mary mart Mario Farrugia (I.D. 137056M) u Maria Dolores sive Doris mart Mario Vella (I.D. 638558M), ahwa Muscat;

Marianna mart Peter Dimech (I.D. 311040M), Salvina mart Bartolomeo Farrugia (I.D. 214541M), Victoria mart Salvatore Camilleri (I.D. 1077546M), ahwa Micallef;

Maria-Victoria sive Marvic mart Joseph Aquilina (I.D. 261367M), Nazzareno (I.D. 539665M), Stephen (I.D. 178569M), Jason (I.D. 371372M) u Joanna mart Victor Bellia minnu legalment mifruda (I.D. 55074M), ahwa Micallef;

John (I.D. 215129M), Celestina mart Nazzareno Fenech (I.D. 797635M), Charles (Pass. No. M5497175), Saviour (Pass. No. 4560756), Victoria mart Joseph Stivala (Pass. No. L3548252) u Alexandra mart Luke Zammit (Pass. No. J1842221), ahwa Grech; flimkien ma' Speranza (I.D. 328250M), Angelo (I.D. 494652M), Paul (I.D. 298641M), Albert (I.D. 419057M), Joseph (I.D. 217756M), Emanuel

(I.D. 710259M), Carmen mart Emanuel Camilleri (I.D. 297462M), Doris mart Saviour Gatt (I.D. 556253M), Marianne mart Joseph Galea (I.D. 6255M), Lucy mart Joseph Camilleri (I.D. 38566M), Grace mart Victor Bonavia, ahwa Xuereb; flimkien ma’ Carmela armla ta’ Joseph Grech (I.D. 493828M), u uliedha Paul (I.D. 104355M), Emanuel (I.D. 95957M), Victor (I.D. 431465M), Albert (I.D. 445469M), Anthony (I.D. 12059M), Dorianne mart Carmelo Vella (I.D. 5273M), Salvina mart Carmelo Bezzina (I.D. 213952M), Grace mart Vincent Cortis (I.D. 516853M), Tessie mart Angelo Vella (I.D. 84861M), Marija mart Paul Micallef (I.D. 293163M), Margaret mart John Mifsud (I.D. 227168M) ahwa Grech; flimkien ma’ Frangiska Grech armla ta’ Emanuel (Pass. No. K16703900);

Maryanne mart Filippo Munzone minnu legalment mifruda (I.D. 53464M); u

Marianna mart Carmelo Camilleri (I.D. 863937M)

vs

Dr. Patrick Valentino u PL Pauline Mallia mahtura b’digriet tal-10 ta’ Marzu 2014 Kuraturi biex jidhru ghall-werrieta mhux maghrufa ta’ Carmelo Micallef

Il-Qorti:

Rat ir-rikors ta’ Josephine Camilleri et li permezz tieghu wara li gie premess illi:

Huma ghandhom erbgha u ghoxrin sehem mhux maqsum minn hamsa u ghoxrin (24/25) tad-dar jisimha “Sagra Familja House”, numru mija u wiehed ittra “B” (101B), fi Triq il-Kbira, Naxxar, bl-arja libera taghha, libera u franka, bi-drittijiet u l-pertinenzi taghha kollha.

Din il-proprjetà ilha in komun ghal aktar minn ghaxar snin, u l-komunjoni nholqot bil-mewt ta’ Celestina Camilleri fil-11 ta’ April 1994 meta ntirtet mill-awturi tar-rikorrenti f’isimha indivizi. Minn dakinhar is-sidien bdew il-qsim tal-proprjetà li minnha fadal din il-proprjetà flimkien ma’ ohrajn li huma mikrija lil terzi.

Is-sehem l-iehor mill-proprjetà huwa tal-wirt ta’ Carmelo Micallef, li miet fid-9 ta’ Jannar 2002. Il-werrieta tieghu ma humiex maghrufa billi wliedu, li kienu msejha ghall-wirt, irrinunzjaw ghall-wirt bi tliet noti, numri 376, 377 u 378 tat-12 ta’ Marzu 2002 fis-Sekond’Awla tal-Qorti Civili, u n-neputijiet tieghu, li kienu msejha ghall-wirt wara r-rinunzja ta’ l-ulied, ukoll irrinunzjaw ghall-wirt b’nota numru 245/2007 tas-7 ta’ Mejju 2007 fil-Qorti Civili, Sezzjoni ta’ Gurisdizzjoni Volontarja.

Din il-proprjetà giet stmata bil-prezz ta’ mija u sittax-il elf Euro (€116,000) mill-Perit Vittorio Bonavia, imma ma setax jinstab bejgh ghaliha bil-prezz moghti minnu. Ir-rikorrenti jixtiequ jbieghu d-dar “Sagra Familja House” li hija proprjetà komuni lil Victor Grech (I.D. 247858M) u Jane Leslye Rebecca Bannister

Grech (I.D. 0012359A) mizzewgin Grech bil-prezz ta’ tmenin elf euro (€80,000). Ghalkemm dan il-bejgh huwa fl-interess tal-komproprjetarji kollha, ma jistax isir il-kuntratt billi l-wirt ta’ Carmelo Micallef ma jidher hadd ghalih.

Intalbet din il-Qorti biex:

1. Tahtar kuraturi biex jidhru ghall-komproprjetarji li ma humiex maghrufa, werrieta ta’ Carmelo Micallef, kif irid l-art. 495A(3) tal-Kodici Civili; u

2. Tawtorizza l-bejgh bil-prezz skond l-Art. 495A(1) tal-Kodici Civili, bil-pattijiet u l-kondizzjonijiet murija fil-konvenju Dok. C;

3. Tawtorizza l-bejgh bil-prezz skond l-Art. 495A(1) tal-Kodici Civili, bil-pattijiet u l-kondizzjonijiet murija fil-prospett Dok. D;

4. Tordna illi l-kuntratt ta’ bejgh jigi pubblikat min-Nutar Nicholas Briffa fil-hin, jum u post li joghgobha tordna; u

5. Tawtorizza lill-kuraturi mahtura skond l-ewwel talba sabiex jidhru f’isem min mill-komproprjetarji jonqos milli jidher quddiem in-Nutar ghall-pubblikazzjoni tal-kuntratt.

Rat id-dokumenti annessi.

Rat id-digriet tal-Qorti diversament presjeduta li permezz tieghu gew mahtura l-Avukat Patrick Valentino u l-Prokuratur Legali Pauline Mallia bhala kuraturi biex jirrapprezentaw il-werrieta mhux maghrufa ta’ Carmelo Micallef.

Rat ir-risposta tal-fuq imsemmija kuraturi li in forza taghha gie sottomess illi:

Huma ma humiex edotti mill-fatti tal-kawza pero jirriservaw illi jipprezentaw risposta guramentata ulterjuri u aktar xhieda meta u jekk jirnexxilhom jottjenu aktar informazzjoni dwar il-kaz odjern.

Rat l-Art. 495A.

Rat id-dokument u d-dikjarazzjonijiet kollha.

Fic-cirkostanzi, ghaldaqstant il-Qorti taqta' u tiddeciedi billi tilqa' t-tieni talba u tawtorizza l-bejgh tal-fond "Sagra Familja House", 101B, Triq il-Kbira, Naxxar bil-pattijiet u l-kundizzjonijiet murija fil-konvenju datat 28 ta' Ottubru 2013; tilqa' r-raba talba u tordna lin-Nutar Nicholas Briffa jippubblika l-kuntratt ta' bejgh nhar is-16 ta' Gunju 2015 fil-11:00 fil-bini tal-Qorti; tilqa' l-hames talba u tawtorizza lill-kuraturi Dr. Patrick Valentino u l-Prokuratur Legali Pauline Mallia biex jidhru wkoll ghall-eventwali kontumaci fuq l-att.

L-ispejjez jithallsu mill-partijiet kollha bejniethom kull wiehed skond is-sehem tieghu fil-proprjetà kollha skond is-sehem taghhom fil-proprjetà.

< Sentenza Finali >

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