



FIT-TRIBUNAL GHAL TALBIET ZGHAR

**GUDIKATUR: DR PHILIP MANDUCA LL.D**

**Seduta ta' nhar It-Tenjn 29 ta' April , 2002**

**Avviz Nru:686/01 PM**

**Xuereb Noel**

**Vs**

**CTB Limited**

**It-Tribunal,**

Ra l-avviz li fih l-attur talab il-hlas ta' elf u tlett mitt Lira (Lm1300)rapprezenanti pagament akkont imhallas kif spjegat fl-istess aviz;

Ra lil-konvenut eccepixxa li l-ammont mitlub mhux dovut stante li x-xoghol ordnat mill-attur mis-socjeta' konvenuta ingustament;

Sema' x-xhieda u ezamina d-dokumenti;

Illi l-attur xehed li s-socjeta' konvenuta kellha taghmel xoghol fid-dar tieghu. L-attur kien ihallas depositu ta' elf u tlett mitt Lira (Lm1300) in konnessjoni ma' dan ix-xoghol. L-attur ghamel l-ordni fis-6 ta' Novembru tas-sena elfejn is-socjeta' konvenuta baqghet inadempjenti sallum;

Christopher Bonello ghas-socjet'a konvenuta xehed li wara l-attur ghamel l-ordni izda qatt ma sar ftehim dwar meta s-socjeta' konvenuta kellha taghmel delivery;

Illi skond l-artikolu 1640 (3) tal-Kodici Civili- "If the employer has a valid reason for the dissolution, he is to pay the contractor only such sum which shall not exceed the expenses and work of the contractor, after taking into consideration the usefulness of such expenses and work to the employer as well as any damages which he may have suffered";

Artikolu 1640(4) jipprovdi, " any advantage made to the contractor before the dissolution of the contract shall be applied to the sums due in terms of subsection (2) or (3) of this section and the contractor shall return any resulting excess to the employer";

Illi jirrizulta ampjament li s-socjeta' konvenuta naqset mill-obbligi taghha. Kellha d-depositu fis-6 ta' Novembru, 2000 izda minkejja diversi ittri li taghmel ix-xoghol kif miftiehem;

Illi l-kuntratti ghandhom jigu ezegwiti "in good faith". L-attur talab servizz mis-socjeta' konvenuta u fis-6 ta' Novembru, 2000 hallas l-ammont ta' elf tlett mija uerba' u erbghin Liri Maltin u hamsa u ghoxrin centezm(Lm 1344.25) lill-istess socjeta' konvenuta. Illi kif jirrizulta minn dokumenti NX l-attur ghamel diversi tentattivi sabiex jihu xi tip ta' risposta minn ghand is-socjeta' konvenuta dwar ix-xoghol. Illi l-attur imbaghad ipprezenta din il-kawza f' Awissu, 2001. Illi sa dakinhar l-attur kien ipprezenta l-kawza. S-socjeta' konvenuta ma taghat ebda risposta sodisfacenti dwar ix-xoghol in kwistjoni;

Illi s-socjeta' konvenuta naqset li tipprezenta provi dwar il-valur tax-xoghol maghmul minnha;

Ili s-socjeta' konvenuta pprezentant rikors fejn talbet li tipprezenta eccezzjoniiet ulterjuri;

Illi dan ir-rikors gie michud billi s-socjeta'konvenuta kienet taf bl-ezistenza ta' tali eccezzjoni meta pprezentat l-eccezzjonijiet originalment;

Ghaldaqstant fic-cirkostanzi tichad l-eccezzjonijiet tas-socjeta' konvenuta u tilqa' tal-attur bl-ispejjs u bl-imghax mid-data tas-sentenza.

**Dr.Philip Manduca L.L.D.**

**Gudikatur**