

The Court of Magistrates (Malta)

Magistrate Doctor Monica Vella LL.D., M. Jur.

Application Number: 27/17MV

Vell Mann Contracting Limited
(C29162)

Vella Mann Showroom, Pantar Estate,
Pantar Road, Lija

Vs

Peter u Eileen Marie married Azzopardi
145, Triq il-Fortizza Mellieha.

Today the 04th April 2023

The Court,

Having seen the application by Vella Mann Construction Limited (C 29162) dated 2nd February 2017 whereby applicant requested from the respondents the following:

‘jhallsu is-somma dovuta ta’ Ewro 8543.70 liema somma tirrapresenta bilanc mhux imhallas minn prezz ta’ xogholijiet lilkom Maghmula fuq struzzjonijie taghkom, kif jirrizulta mill-istatement anness.

Bl-ispejjez, inkluz dawk tal-kontro protest Numru 293/2016 datat 19 t’ Awwissu 2016 u tal-mandat ta’ sekwestru li qed jigi intavolat kontestwalment, u bl-imghaxijait legali mid-data tal-istess kontro-protest, kontra l-konvenuti li jibqghu minn issa ngunti ghas-subizzjoni’.¹

Having noted that there were no documents annexed to the application and this is contrary to what is stated in the same application.²

Having seen the reply filed by respondents Peter Paul Azzopardi (United States Passport numbered 452409347) and that of his wife Eileen Azzopardi (United States Passport numbered 515363323) whereby they held:

1. Illi, preliminarjament, jigi rilevat li l-mertu, kif ukoll l-eżitu, tal-proċedimenti odjemi huma intrinsikament konnessi ma', u dipendenti fuq, l-eżitu ta' proċedimenti oħra istitwiti mill-esponenti pendenti quddiem l-Onorabbli Prim' Awla tal-Qorti Civili fl-ismijiet Peter Azzopardi u maru Eileen Marie Azzopardi -vs- Vell Mann Contracting Limited (Rikors Guramentat Nru, 1003/16 MH) ('Dok. PA 1'), liema kawza giet isitwita mill-esponenti għal-likwidazzjoni u konsegwenti hlas ta' danni da parti tal-kumpanija rikorrenti in vista tad-danni sofferti

¹ Folio 1 of the file.

² Dok A indicated in the application was not attached.

mill-istess esponenti b'konsegwenza tax-xogħolijiet ta' appalt eżegwiti minnha fil-fond residenzjali tagħhom b'nuqqas ta' sengha u arti.

Għaldaqstant, in vista tal-fatt li, permezz ta' dawn il-proċedimenti, l-kumpanija rikorrenti qieghdha tirreklama ammont bilanċjali allegatament mhux imhallas mill-esponenti in konnessjoni mal-istess kuntrat ta' appalt mertu tal-proċedimenti pendenti quddiem l-Onorabbli Prim' Awla tal-Qorti Ċivili, l-investigazzjoni relattiva rikjesta minn din l-Onorabbli Qorti neċessarjament ser tinvesti l-mertu tal-kawża l-oħra pendenti quddiem l-Onorabbli Prim'Awla tal-Qorti Ċivili, anke in vista tad-dettami tal-Artikolu 1640 tal-Kapitolu 16 tal-Liġijiet ta' Malta, bil-konsegwenti risku ta' multiplikazzjoni ta' xhieda dwar l-istess mertu, kif ukoll ta' decizjonijiet kunfliġġenti għar-rigward tad-danni naxxenti mill-istess kuntratt ta' appalt. Fil-fatt, permezz tas-sitt (6) eċċezzjoni tal-kumpanija konvenuta, hawn rikorrenti, kontenuta fir-Risposta Ġuramentata ppreżentata fl-atti tal-kawża surreferita pendenti quddiem l-Onorabbli Prim' Awla tal-Qorti Ċivili, kopja ta' liema hija hawn annessa u mmarkata bħala 'Dok. PA 2', hi tikkontendi li "...l-atturi ma kellhomx raġuni valida biex jitterminaw il-kuntratt t'appalt, u b'hekk mhux talli m'għandhom ebda jedd għal danni, talli ai termini tal-artikolu 1640(2) tal-Kap. 16, huma tenuti li jhallsu lill-konvenuti il-valur tax-xogħol kollu li għamlu, kif ukoll l-element ta' profit li s-socjeta' konvenuta kelha tagħmel fuq il-valur kollu tal-kuntratt", filwaqt li ssostni wkoll li "fil-fatt l-ammont dovut mill-atturi huwa dak ta' €8543.70," ossia l-ammont reklammat minnha permezz ta' dawn il-proċedimenti ġudizzjarji.

Għaldaqstant, kemm fl-interessi tal-amministrazzjoni tal-ġustizzja, kif ukoll tal-ekonomija tal-ġudizzju, din l-Onorabbli Qorti għandha tordna s-soprasessjoni tal-kawża odjerna pendenti l-eżitu tal-proċedimenti

gudizzjarji surreferiti pendent quddiem l-Onorabbi Prim'Awla tal-Qorti Ċivili.

2. Illi, mingħajr preġudizzju għas-suespost, u biss f'każ li din l-Onorabbi Qorti kellha tichad l-ewwel (1) eċċezzjoni surreferita u tghaddi sabiex tordna s-smiġħ tal-kawża odjerna fil-mertu, jiġi rrilevat li t-talba tal-kumpanija rikorrenti hija totalment infondata fil-fatt u fid-dritt u, fil-fatt, l-ebda hlas m'hu dovut mill-esponenti lill-istess kumpanija rikorrenti in vista ta' dak provdut fl-Artikoli 1640(3) u 1640 (4) tal-Kapitolu 16 tal-Liġijiet ta' Malta, senjatament in vista tad-danni kkaġunati lill-istess esponenti b'konsegwenza tax-xogħolijiet ta' appalt in kwistjoni li ma ġewx eżegwiti mill-kumpanija rikorrenti skond is-sengħa u l-arti, u dan kif ser jirriżulta waqt it-trattazzjoni tal-kawża odjerna.

3. Illi, b'zieda u in sostenn tat-tieni (2) eċċezzjoni surreferita, fil-mertu jiġi rrilevat wkoll illi l-ebda hlas m'hu dovut mill-esponenti lill-kumpanija rikorrenti, u dan stante li x-xogħolijiet ta' appalt attwalment eżegwiti minnha ma sarux skond is-sengħa u l-arti, bil-konsegwenza li l-esponenti soffrew danni stmati fl-ammont ta' hmistax-il elf u tmien mija u wieħed u sebghin Ewro (€ 15,871.00) (eskluz il-VAT), u dan kif jirriżulta mir-Rapport Peritali datat għoxrin ta' Mejju tas-sena elfejn u sittax (20.05.2016), kopja ta' liema hija hawn annessa u mmarkata bħala 'Dok. PA 3', ma' liema ammont iridu jizdiedu wkoll ammonti ulterjuri, fosthom l-ammont ta' elfejn u hames mija u hamsin Ewro (€ 2,550.00) rappreżentanti ammonti sbursati lil terzi għall-estensjoni ta' ftehim lokatizzju sabiex il-familja tal-esponenti ikollha fejn tirisjedi matul ix-xhur ta' Diċembru tas-sena elfejn u hmistax (2015) u Frar tas-sena elfejn u sittax (2016), ossia sakemm il-fond residenzjali tagħhom jitqiegħed fi stat idoneju għall-abitazzjoni, u dan in vista tal-

intransiġenza u tad-dewmien ikkaġunat mill-kumpanija rikorrenti fl-eżekuzzjoni tax-xogħolijiet relattivi, minkejja d-diversi akkordi milhuqin bejn il-partijiet f'dan ir-rigward.

Il-komputazzjoni ta' tali danni, del resto, jifforma l-mertu tal-proċedimenti ġudizzjarji surreferiti pendenti quddiem l-Onorabbli Prim' Awla tal-Qorti Civili (Rikors Guramentat Nru. 1003/16 MH).

4. Illi, in vista tat-tielet (3) eċċezzjoni surreferita, jiġi rrilevat li l-azzjoni ta-kumpanija rikorrenti, kif intavolata fir-rikors promotur tagħha, hija irritwali u intempestiva in vista tal-inadempjenza kuntrattwali tagħha - inadempiti non est adimplendum- liema inadempjenza kienet baqgħet ma ġiet indirizzata mill-kumpanija rikorrenti minkejja diversi interpellazzjonijiet f'dan ir-rigward da parti tal-esponenti, bil-konsegwenza li l-istess esponenti kellhom jiehdu d-deċiżjoni li jittterminaw il-kuntratt ta' appalt in kwistjoni formalment permezz ta' ittra legali datata għoxrin ta' Mejju tas-sena elfejn u sittax (20.05.2016) ('Dok. PA 4'), kif ukoll li jintavolaw il-proċedimenti ġudizzjarji surreferiti attwalment pendenti bejn il-partijiet quddiem il-Prim' Awla tal-Qorti Civili (Rikors Guramentat Nru. 1003/16 MH).

5. Illi, mingħajr preġudizzju għas-suespost, jiġi rrilevat li ċertament qatt ma kien hemm xi forma ta' qbil bejn il-partijiet għar-rigward tal-ħlas tal-ammont reklamat mill-kumpanija rikorrenti permezz tal-proċedimenti ġudizzjarji odjerni.

B'zieda ma' dan, jiġi rrilevat li l-ammonti u l-pagamenti dettaljati fir-Rendikont li jsir referenza għalih fir-rikors promotur tal-kumpanija

rikorreni (minkejja li mhux anness miegħu) ma jikkorrispondux mal-ħlasijiet kollha attwalment effetwati mill-esponenti lill-kumpanija rikorreni.

Fil-fatt, kien biss wara li l-kumpanija rikorreni kienet giet notifikata bil-Protest Ġudizzjarju bin-numru 253/16, intavolat mill-esponenti fil-konfront tagħha, li l-istess kumpanija għazlet li tirreklama l-ammont attwalment reklammat permezz ta' dawn il-proċedimenti ġudizzjarji, u dan permezz ta' Kontro-Protest Ġudizzjarju bin-numru 293/16, ossia ammont ferm ikbar minn dak precedentement reklammat u deskritt minnha bħala 'outstanding balance' fil-korrispondenza tagħha datata tnax ta' Mejju tas-sena elfejn u sittax (12.05.2016), kopja ta' liema hija hawn annessa u mmarkata bħala 'Dok. PA 5'.

Ghaldaqstant, in vista tas-suespost, l-esponeni qeghdin jirriżervaw kull dritt spettanti lilhom li jintavolaw eċċezzjonijiet ulterjuri fl-eventwalità tad-debita spjegazzjoni u/jew kjarifika da parti tal-kumpanija rikorreni dwar id-deskrizzjoni tal-ammonti indikati fir-Rendikont surreferit u/jew fil-fatturi relattivi, kif ukoll dwar il-kompożizzjoni tal-istess ammonti kostituttivi, liema oneru kjarament jinkombi fuq il-kumpanija rikorreni qabel kwalunkwe konsiderazzjoni oħra relattiva għall-mertu ta' dawn il-proċedimenti ġudizzjarji.

6. Illi, b'zieda ma' dak riportat fil-hames (5) eċċezzjoni surreferita, jigi rrilevat li l-fatturi indikati fir-Rendikont li jsir referenza għalih fir-rikors promotur tal-kumpanija rikorreni li, għalkemm mhux annessi mal-istess Rikors kienu, fil-fatt, annessi mal-Kontro-Protest Ġudizzjarju bin-numru 293/2016 ipprezentat mill-kumpanija rikorreni fil-konfront tal-esponenti, ġew ikkrejati u nħargu mill-kumpanija

rikorrenti b'mod abbużżiv u illegali stante li ma jikkorrispondux mar-
'Requests for Payment' relattivi jew mal-pagamenti effettwati mill-
esponenti, u dan kif se jirriżulta waqt it-trattazzjoni tal-kawza odjerna
fil-mertu.

7. Salv eċċezzjonijiet oħra.³

Having seen the documents annexed to the respondents reply.

Noted that during the sitting of the 22nd March 2017 respondents asked that the proceedings are held in English. This request was not objected to by the applicant except that the applicant's representative requested to be able to testify in the Maltese Language. The Court ordered that the proceedings are held in the English language.⁴ During the same sitting the parties agreed that case had to be stayed in view of case number 1003/2016 which was being decided by the First Hall of Civil Court. Parties also agreed that all evidence gathered in the latter proceedings are to form part of these proceedings. The Court upheld these requests.

During the sitting of the 12th April 2022 the applicant informed the Court that case before the First Hall Civil Court had been abandoned and that therefore this case should be adjourned for the evidence of the applicant. The Court acceded to this request.⁵

³ Folio 6 sa 9 of the file.

⁴ Folio 81 of the file.

⁵ Folio 101 of the file.

During the sitting of the 29th November 2022 applicant declared that it had no further evidence to produce.

During the sitting of the 17th January 2023, the applicant asked the court to declare the evidence of the respondents closed since they failed to appear on numerous occasions. The Court declared the stage of evidence of the respondents closed after reviewing the acts of the proceedings.

Having seen all the records of the case.

Having seen all the evidence and documents brought in these proceedings.

Having seen that the applicant declared it will rest on the evidence found in the acts of these proceedings⁶.

Having seen that the case was adjourned for judgement for today.

Considered:

Facts in Brief.

This case concerns the alleged failure of the respondents to pay the applicant the sum of eight thousand and five hundred and forty three

⁶ Folio 171

Euro and seventy cents (€8543.70c). The respondents are the owners of the premises numbered 145, in Triq il-Fortizza, Mellieha which they owned since the 17th August 2015. It transpires that in October 2015 respondents had contracted the applicant as turnkey contractors so that they could do finishings in the said property. Respondents claim that the brief assigned was not carried out in full. Moreover, respondents claim that what was in fact executed was not done according to the necessary standards, diligence and skill. Consequently, they did not pay the amounts requested. To substantiate their claim respondents commissioned a report by their architect M. Roberta Mallia in May 2016.⁷

On the other hand, applicant company mainly claimed that from the very beginning they made it clear to respondents that his company was concerned only with the management and workmanship of those trades that were assigned to them and that the company was not responsible as far as other contractors were concerned. Mr. Vella, on behalf of the applicant company, held that Eileen Marie Azzopardi requested that the works are concluded by Christmas 2015 but he told her that this was not at all possible in view of the massive works involved. It transpires that various contractors were on site and engaged in the refurbishment of the premises. It seems that respondent Mr. Azzopardi was present most of the time during the works although between December 2015 and February 2016 he was abroad but was being continuously briefed by the applicant of the ongoing works.

Considered:

⁷ Folio 22 to 76 of the file.

The Evidence.

The Court from the very beginning points out that although the parties had agreed that the evidence gathered in the application in the names *Peter Azzopardi u martu Eileen Marie Azzopardi vs Vell Mann Contracting Limited* (Rikors Guramentat Nru. 1003/16 MH) to be applicable to these proceedings, there has been no request by either party to annex such proceedings to these proceedings. Thus, this Court will only take note and evaluate the evidence that was filed in the present proceedings.

The evidence consists of the application of the applicant company and also the detailed account given through an affidavit by Mr. Aldo Vella.⁸ Applicant claims that he first met respondents on the 13th October 2015 and that the scope of the meeting concerned water proofing works. It seems that during the same meeting there was a certain Alex who was presented as a turnkey contractor. The latter was never produced as a witness by any one of the parties, however. From what was stated by Mr. Vella it seems that defendant Peter Azzopardi was frequently on the site during all the works and when he was abroad between end December 2015 and January 2016 he was continuously briefed by applicant Vella on behalf of the company.⁹ It also seems that during mid-January 2016 there were some issues with the neighbour who started to complain about damages and it also results that there was an issue with the colours of the paint.¹⁰

⁸ Folio 106 of the file.

⁹ Folio 116 to Folio 122 of the file.

¹⁰ Folio 123 of the file.

In an email dated 8th February 2016 applicant wrote to respondent and again black on white told him:

‘You are aware that with the tiling and some other contractors, my role was co ordination only and am not expected to be responsible for their work/cleaning.’¹¹

It seems that on the 10th May 2016, respondents gave formal notice that they were unhappy with quality of the works performed by applicant’s sub-contractors and that payment was stopped.¹² They forwarded a list of the items which allegedly were not to their satisfaction. Applicant disputed the allegation and demanded payment for Euro 1,478 immediately.¹³

Mr. Vella holds that he is the Director of the company, Vell Mann Contracting Ltd., confirms that the outstanding amount by the respondents was still on the 29th November 2022 of eight thousand and five hundred and forty three Euro and seventy cents (€8,543.70c). He also produced a detailed account of the invoices issued and payments received.¹⁴

Considered:

¹¹ Folio 125 of the file.

¹² Folio 131 of the file.

¹³ Folio 133 of the file.

¹⁴ Folio 147 of the file.

This is an action for payment by the contractor, Vell Mann Contracting Limited, the applicant, against his client Peter and Eilenn Marie Azzopardi, the respondents as the latter are claiming that the work commissioned, or at least part of it was not done according to standards. On the other hand, applicant submits that the work done was done according to the requested standards and that in any case if there were defects they are attributed to third parties who too were working on the premises. Thus, applicant demands that the respondents are condemned to pay the remaining amount due for the works commissioned by the respondents and which the applicant carried out.

Considered:

The Court believes that the relevant articles of Chapter 16, Civil Code, of the Laws of Malta applicable to the issue in dispute are the following:

The Title Of the Letting of Work and Industry Section , Sub title II Of Contract of Works or locatio operis, Section 1633 to 1643.

The Court also deems relevant the following articles:

1031. Every person, however, shall be liable for the damage which occurs through his fault.

1032.(1) A person shall be deemed to be in fault if, in his own acts, he does not use the prudence, diligence, and attention of a bonus paterfamilias.

(2) No person shall, in the absence of an express provision of the law, be liable for any damage caused by want of prudence, diligence, or attention in a higher degree.

1125. Where any person fails to discharge an obligation which he has contracted, he shall be liable in damages.

1132.(1) Saving any other provision of this Code relating to deposits, the degree of diligence to be exercised in the performance of an obligation, whether the object thereof is the benefit of only one of the parties, or of both, is, in all cases, that of a bonus paterfamilias as provided in article 1032.

Considered:

The principles that govern the institute of contract, with special reference to the case under review are the following:

‘Min jintraprendi xogholijiet ghandu jassikura l-ewwel nett l-adempjenza tal-ftehim pattwit u fuq kollox li jippresta opra sodisfacenti. Dan fis-sens li ghandu b’obbligu jara li x-xoghol ikun sejjer isir utilment u mhux b’mod li ‘l quddiem juri difetti. (Vol. XLII.ii.1003);

.....
.....

Dan jiddependi minn natura tad-difett riskontrat. Jekk id-difett ikun ta' certa gravita' l-kommittenti ikollu d-dritt jopponi l-*exceptio non rite adempti contractus* ghad-domanda li ssirlu ghall-hlas (Francis Spiteri nominee vs Emanuele Cassar, Appell Civili, 14.03,1975). Jekk minn-naha l-ohra d-difetti ma jkunux sostanzjali jew essenzjali, l-appaltatur ikollu d-dritt li jitlob li daww id-difetti jigu riparati (Vol. XXX.ii.433) jew jaccetta riduzzjoni (Angelo Busuttil vs Pio Fedele et, Prim' Awla Qorti Civili, 09.04.1968; John Bonnici nominee vs Anthony Sammut, Appell Kummercjali, 22.06.1994, Victor Tabone vs Felix Mifsud, Prim' Awla, Qorti Civili, 05.10.1994)¹⁵.

Moreover, Mr. Justice Emeritus Philip Sciberras in his extensive work *L-Alfabet tal-Kodici Civili (Volum T- Z)* quotes:

'Innegabbli, l-obbligu primarju ta' l-appaltatur, li jassumi l-inkarigu li jwettaq l-opra lilu kommissjonata, huwa dak li josserva u jhares in-normi ta' l-arti u tas-sengha fl-esekuzzjoni ta' din l-istess opra. Skond id-duttrina legali u l-gurisprudenza dan l-obbligu jikkompreni li hu jippresta kapacita' ordinarja kif ukoll *'quella diligenza e quella perizia ordinaria che gli e' imposto dalla natura del contratto'* (Kollez. Vol. XXVII P I p 374). Gie ripetut diversi drabi illi 'l-appaltatur ghandu jezegwixxi x-xoghol lilu kommess fis-sens li huwa ghandu l-obbligu wkoll li jara li dan ix-

¹⁵ Vide 'Massimarji tal-Imhalled Philip Sciberras- It-Tieni Volum: Dritt Sostantiv', per. Onr. Imhalled Grazio Mercieca, pg. 625.

xoghol ikun sejjer isir utilment u mhux b'mod li 'l quddiem juri difetti. F'kaz bhal dan hu ghandu mill-ewwel ma jaghmilx ix-xoghol jew ikollu jirrispondi ghad-difetti li jguru 'l quddiem' (Mario Blackman vs Carmelo Farrugia et nomine, Appell Kummercjali, 27 ta' Marzu 1972).¹⁶

Judge Emeritus Philip Sciberras adds further:

'...l-argument legali li tressaq mis-socjeta' attrici biex tipprova tehles mir-responsabilita' ma jregix. Dan peress illi huwa principju li kuntrattur li jkun ser jghamel xoghol fuq haddiehor ghandu xorta obbligu li jaghti servizz tajjeb u rizultat utili, u jekk jara li ma jistax jaghti dan ir-rizultat minhabba x-xoghol precedenti li jkun sar, ghandu jirruifjuta l-inkarigu.'

Considered:

With regards to who needs to prove that there was bad workmanship, Judge Grazio Mercieca holds the following:

'Ir-responsabilita' ma tipprexxindix mid-debita indagni ta' htija, li mhux prezunta, imma jehtieg tigi pruvata.....evidentement, il-prova tan-nuqqas tal-impenn mill-applatatur ghall-kanoni komportamentali tad-diligenza u ghar-rizultat objettivament konformi ghall-aspettativi tal-kommittent taggrava fuq dan tal-ahhar. Huwa jehtieglu juri ghas-sodisfazzjon tal-Qorti illi l-

¹⁶ Pagni 567-568

applatatur ma hax hsieb jirrispetta r-regola tas-sengha u tal-arti in kwantu ghar-riskontru tal-vizzji fix-xogholijiet realizzati. Il-Qorti jkollha allura tezamina jekk il-konvenut appellant irnexxilux jiskarika minn fuqu dan il-piz.’¹⁷

Considered:

The Court believes that although the case in question was instituted on February 2017 there is very few material in the proceedings to examine. The main evidence that is to be reviewed are the report submitted by the respondents architect and the affidavit by applicant and the documentation attached thereto.¹⁸

It is very evident from the affidavit of the director of the applicant that he does not outline the exact role and jobs entrusted to his company. Although the affidavit is very detailed and collaborated with quotations and invoices **he fails to indicate what was his exact role in the works assigned by the respondents.** The fact that they were not happy with his delivery and subsequently initiated another civil suit against him does not help his cause and neither helps the investigation that this Court has to make in reaching the conclusion whether his claims are justified. What is for sure, and that this is contrary to what is stated in his affidavit, is that in the email dated 4th December 2015, respondent Peter Azzopardi, writing to Masco Ltd. and where Mr. Aldo Vella of Vell Mann Contracting Limited is copied, the latter is indicated as the **general contractor.**¹⁹ There is no negation on the part of the applicant

¹⁷ Massimarju tal-Imhallef Philip Sciberras- It-Tieni Volum: Dritt Sostantiv per Onr. Imhallef Grazzio Mercieca; pg. 649.

¹⁸ Folio 22 and 106.

¹⁹ Folio 159 of the file.

that he was NOT in fact the general contractor for the works at hand and thus in the opinion of the Court it was his responsibility to show during the proceedings that in fact he was not and other contractors and/or persons senior than him were entrusted in the project.²⁰ On the contrary from the emails presented by the applicant at folios 116 to 125 it is more than evident that Vell Mann Contracting Limited with its lead man Mr. Aldo Vella, had a leading role, if not a crucial role in the project and thus can not, now, not shoulder any responsibility.

It is also very evident from the report prepared by the respondents' architect that the work done on site left much to be desired. The carelessness and shabbiness was very evident across all the premises. Respondents are disputing works in relation to payments in the amount of one thousand and four hundred and seventy eight Euro (€1,478) and seven thousand and sixty five Euro and seventy cents (€7,065.70c)²¹. This report was never attacked by the applicant **but this is not an action for damages for works not done or not properly done.** That issue had to be deliberated and decided in the case *Peter Azzopardi et. vs Vella Mann Contracting Ltd.* (C 29162) (Rikors Guramentat Nru. 1003/2016MH) which apparently the respondents, applicants in those proceedings, have abandoned.

In the opinion of the Court, what the applicant company had to prove, in the case under examination, was that the services and/or material related to the amount requested was delivered and in the opinion of this Court this has been proven by the applicant up to the degree required

²⁰ See also email presented by the applicant at folio 112 of the file as well.

²¹ Folio 152 and 153 of the file.

by law in civil proceedings. In any case, the latter issue was never attacked by the respondents, not even in their reply²².

Thus, in the opinion of the Court, the claim made by applicant company should be granted to the full amount being claimed of eight thousand and five hundred and forty three Euro and seventy cents (€8543.70).

Considered further:

Applicants are asking from the respondents the expenses incurred in the counter-protest number 293/2016 dated 19th August 2016 and the seizure warrant filed together with these proceedings and with legal interest from the date of the counter protest.

The latter court documents, however, have not been presented in the acts of these proceedings and thus, the Court, in the absence of any proof regarding the same, cannot grant this request.

Decides:

Consequently, for the above reasons, the Court:

²² Folio 6 to 9 of the file.

(1) Accedes to the request by the applicant company Vell Mann Contracting Limited (C 29162) and condemns the respondents Peter and Eileen Azzopardi, in solidum between them, to pay to the said applicant the sum of eight thousand and five hundred and forty three Euro and seventy cents (€8543.70) and this with legal interest from the date when this judgement becomes *res judicata* until the date of the effective payment, and

(2) Rejects the remaining part of the demand made by the applicant company whereby applicant requested the respondents to pay the expenses incurred in the counter-protest number 293/2016 dated 19th August 2016 and the seizure warrant filed together with these proceedings and with legal interest from the date of the counter protest.

With Costs of these proceedings against the respondents, which costs are to be born solely by the respondents *in solidum* between them.

Dr. Monica Vella LL.D., M. Jur.

Magistrate

Angelo Buttigieg

Deputy Registrar.