MALTA

QORTI CIVILI
PRIM' AWLA

ONOR. IMHALLEF
NOEL CUSCHIERI

Seduta tad-19 ta' Novembru, 2003

Citazzjoni Numru. 1161/2003

Building Consultancy Services Limited (C-5549)
Vs
Philip Degiorgio u s-socjeta’ Richard Company Limited

Il-Qorti,

Rat l-att tac-citazzjoni li bih is-socjeta’ attrici ppremettiet illi in forza ta’ skrittura privata datata 5 t’April 2002, iffirmata bejn is-socjeta’ attrici u l-konvenuti, gie *inter alia* dikjarat illi *PDG* (il-konvenuti) *had entrusted BCS* (is-socjeta attrici) *as represented by Edgar Rossignaud, for Architectural Services in connection with several development projects situated all at Sliema …Architect Rossignaud on behalf of BCS gave all the requested professional services in connection with the above projects, to the complete satisfaction of PDG, up to the date when the Sliema Hotel was completely finished, and when the other projects were abandoned by PDG himself.*

Notwithstanding the amounts already paid by PDG to BCS on account of professional services rendered, it is acknowledged that there is an amount still due to BCS for such services …the total amount thus due to BCS is Lm 10,119 (incl. VAT);

Illi in forza ta’ l-istess imsemmija skrittura privata l-konvenuti, flimkien u *in solidum* bejniethom, irrikonoxxew *such claim by BCS as being a legitimate claim* u solidalment bejniethom obbligaw ruhhom li jhallsu lis-socjeta’ attrici l-imsemmija somma ta’ ghaxart elef mija u dsatax-il Liri Maltin (Lm 10, 119.00), fi zmien tnax –il xahar mid-data tal-precitata skrittura privata, Dok. “BCS1”;

Illi sal-gurnata ta’ llum, nonostante dak dikjarat u stipulat fl-iskrittura privata datata 5 t’April 2002, il-konvenuti ghadhom ma hallsux lis-socjeta’ attrici l-imsemmija somma ta’ ghaxart elef mija dsatax-il Liri Maltin (Lm 10,119.00) hekk minnhom lilha dovuta;

Illi ghalhekk illum is-socjeta’ attrici hija kreditrici tal-konvenuti, flimkien u *in solidum* bejniethom, fl-ammont ta’ ghaxart elef mija u dsatax-il Liri Maltin (Lm 10,119.00), kif aktar ‘l fuq premess;

Illi llum l-imsemmi ammont dovut mill-konvenuti, flimkien u *in solidum* bejniethom, lis-socjeta’ attrici huwa kreditu cert, likwidu u dovut tas-socjeta’ attrici fil-konfront tal-konvenuti solidalment bejniehthom u fil-fehma ta’ l-istess socjeta’ attrici jikkonkorru l-elementi preskritti mill-Artikolu 167 – 170 tal-Kapitolu 12 tal-Ligijiet ta’ Malta, sabiex din il-kawza tigi deciza bid-dispensa tas-smigh billi fil-fehma ta’ l-istess socjeta’ attrici il-konvenuti ma ghandhom ebda eccezzjoni xi jressqu kontra t-talba ghall-hlas ta’ l-imsemmi ammont maghmula kontra taghhom mis-socjeta’ attrici, Dok. “BCS2”;

Illi nonostante diveri talbiet ghall-hlas, inkluza ittra ufficjali datata l-1 ta’ Settembru 2003, il-konvenuti baqghu inadempjenti u ma hallsux dak minnhom solidalment dovut lis-socjeta’ attrici.

Jghidu ghalhekk il-konvenuti ghaliex ghar-ragunijiet premessi m'ghandhiex din il-Qorti:

1. Tipprocedi ghas-sentenza skond it-talba tas-socjeta' attrici bid-dispensa tas-smigh tal-kawza ai termini tal-Artikoli 167-170 tal-Kapitolu 12 tal-Ligijiet ta' Malta;
2. Tikkundannahom, flimkien u *in solidum* bejniethom, ihallsu lis-socjeta' attric s-somma komplessiva ta' ghaxart elef mija u dsatax-il Liri Maltin (Lm 10,119.00) inkluza l-VAT, minnhom solidalment dovuta lis-socjeta' attrici ai termini tal-pattijiet u kondizzjonijiet ta' l-iskrittura privata datata 5 t'April 2002.

Bl-ispejjez, inkluzi dawk ta' l-ittra ufficjali datata l-1 ta' Settembru 2003, u bl-imghax legali dekorribli mill-5 t'April 2003 sad-data ta' l-effettiv pagament, kontra l-konvenuti, li huma minn issa ingunti ghas-subizzjoni.

Rat l-affidavit tal-istess socjeta attrici u d-dokumenti l-ohra.

Rat l-atti tal-kawza;

Semghet provi bil-gurament;

Peress li l-Qorti mhijiex sodisfatta li s-socjeta konvenuta ghandha prima facie eccezzjonijiet validi ghat-talbiet attrici;

Peress li fic-cirkostanzi t-talba kif dedotta fic-citazzjoni tidher gustifikata u jidher ukoll li hemm lok li s-sentenza tinghata bid-dispens tas-smiegh tal-kawza, skond il-procedura tal-Artikolu 167 et sequitur tal-Kodici tal-Organizzazzjoni u Procedura Civili;

Tiddecidi billi tilqa' t-talba tas-socjeta' attrici kif dedotta fic-citazzjoni, bl-imghax mitlub u bl-ispejjez kontra l-konvenuti.

Moqrija

< Sentenza Finali >

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