



MALTA

QORTI TA' L-APPELL

**S.T.O. PRIM IMHALLEF
VINCENT DE GAETANO**

**ONOR. IMHALLEF
JOSEPH D. CAMILLERI**

**ONOR. IMHALLEF
JOSEPH A. FILLETTI**

Seduta tas-17 ta' Jannar, 2005

Appell Civili Numru. 56/2000/1

Patricia Ann Needham

VS

**Dottor Carmelo Galea li b'digriet tal-11 ta' April 2000
gie nominat kuratur deputat sabiex jirraprezenta
lill-imsiefer Nicholas Needham**

The Court:

This is a decision on whether the appeal application should be declared to be abandoned in view of the fact

that security for costs was not deposited prior to the sitting of the 11 October, 2004; and also whether, in the event of the appeal being so declared to be abandoned. The cross-appeal would also be deemed to be abandoned.

The Court, having seen sections 209 and 249 of Cap. 12 cannot agree with the suggestion that the appeal must be deemed to be abandoned. The date of first hearing of the appeal was the 2 June, 2004 and at that stage, no security could be deposited because the Registrar had not yet determined the amount because the parties had not agreed on the value in issue. Such agreement was only arrived at in the joint note of the parties filed seduta stante on the 2 June, 2004. On that same day – that is 2 June, 2004 – this Court did not establish any time limit as is provided for in the proviso to subsection (1) of section 209; consequently appellant cannot be held to be in breach of any judicial time by the fact that prior to the sitting of the 11 October, 2004 the security which had by that time been determined by the Registrar had not been deposited.

Consequently there is no question about the abandonment of the appeal of Mrs. Needham. Her application of appeal stands. As a result no issue can arise as to the abandonment or otherwise of the cross-appeal.

The Court therefore orders the continuation of the hearing of both the appeal and cross-appeal, subject to the determination of appellant's application to be admitted to the benefit of the "*cautio juratoria*".

Costs connected with this decision reserved for the final judgement.

< Sentenza In Parte >

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