



COURT OF APPEAL

**HIS HONOUR THE CHIEF JUSTICE
VINCENT DE GAETANO**

**THE HON. MR. JUSTICE
JOSEPH A. FILLETTI**

**THE HON. MR. JUSTICE
GEOFFREY VALENZIA**

Sitting of the 15 th February, 2010

Civil Appeal Number. 106/2009/1

**John Grech in his own name and on behalf of the
minors N.B.T.L. Grech Hellermann and S.M.R.L. Grech
Hellermann**

v.

Christianne Hellermann

The Court:

Having seen the application of appeal filed on the 7th December 2009 by John Grech pro et noe from the decree of the Family Section of the Civil Court delivered on the 1st December 2009;

Having seen the reply filed on behalf of Christianne Hellermann on the 28th December 2009;
Having heard counsel for appellant and counsel for the respondent during the sitting held to-day;

Having seen the voluminous record of the case and in particular those documents directly related to the decree of the 1st December 2009;

Considers:

This Court must state at the outset that it is appalled by the inability of both the parties and their respective counsel to deal with the matter currently before the first court, that is with the question of the custody of the children of John Grech and Christianne Hellermann, in an uncomplicated and efficient way so as to obtain a final decision from the first Court as soon as possible. Instead the parties seem to find pleasure in submitting interminably long documents before that Court which only help to make, in the words of John Milton, “confusion worse confounded”.

With reference to the application of appeal of the 7th December 2009, respondent Hellermann pleaded the nullity of the said application of appeal. Respondent is correct in her plea. The decree of the 1st December 2009 is an interlocutory decree which falls to be regulated by sub-article(3) of Article 229 of the Code of Organisation and Civil Procedure (Cap. 12), and which therefore requires leave to appeal. No such leave was obtained. Consequently the application of the 7th December 2009 was irregularly filed, and must therefore be declared to be null and void.

Having said this, this Court, however, makes it also quite clear that no cogent arguments were advanced by appellant before this Court which could have convinced it to vary or revoke the decree of the 1st December 2009. Needless to say, this decree is always subject to variation

Informal Copy of Judgement

by the Family Section of the Civil Court if and when sufficient reasons are brought to that Court's attention.

For these reasons this Court declares the application of appeal to be null and void and abstains from taking further cognisance of the same. Costs to be borne by appellant.

The record of the case is to be remitted forthwith to the Family Section of the Civil Court.

< Final Judgement >

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