



**QORTI TA' L-APPELL**

**ONOR. IMHALLEF  
MARK CHETCUTI**

Seduta tat-2 ta' Mejju, 2013

Appell Civili Numru. 11/2012

**Oliver Zammit**

**vs**

**L-Awtorita' ta' Malta dwar l-Ambjent u l-Ippjanar u  
l-kjamat in kawza Sandra Grech**

**Il-Qorti,**

Rat ir-rikors tal-appell ta' Sandra Grech tas-6 ta' Jannar 2012 mid-decizjoni favur il-hrug tal-permess PA 4111/06 favur Oliver Zammit da parti tal-Bord tal-Appell dwar l-Ippjanar tad-19 ta' Dicembru 2011;

Rat ir-risposta tal-Awtorita li ssottomettiet preliminarjament illi l-appell sar fuori termine u illi bla pregudizzju, fil-mertu l-appell ghandu jigi respint u d-decizjoni tal-Bord tigi konfermata;

Kopja Informali ta' Sentenza

Rat ir-risposta ta' Oliver Zammit li ssottometta preliminarjament illi l-appell sar fuori termine u illi l-lanzanza hi dwar punt ta' fatt mhux punt ta' ligi;

Rat l-atti kollha u semghet id-difensuri tal-partijiet;

Rat id-decizjoni tal-Bord ta-Appell li tghid hekk:

Illi l-appellant issottometta appell bhala oggezzjoni ghal hrug ta' permess dwar tkabbir ta' 'washrooms' li kienu approvati b'qies, f'permess PA 52/05 u li qed issa jigu approvati ikbar fil-permess PA 4111/06 u din taqra' kif gej :-

"That the development Control Commission acted irregularly and against the specific rules stated in the Policy & Design Guidance Article 10.2 (a) in that washrooms and stair hood should not have a combined floor space exceeding 36 sq metres.

The approved development exceeds this allowable area and therefore the permit should be revoked accordingly

The application description Demolition of existing building and construction of residential units and underlying garages is misleading and prima facie irregular since the application consists of an amendment to an existing permit PA 502/05 which granted the described development, solely for the construction of large washrooms to be potentially used as penthouses.";

Illi dan l-appell sar wara hrug ta' permess PA 4111/06 datat 16 ta' Marzu 2007 fuq applikazzjoni B7 "amended development permission" sabiex jigu "extensions to washrooms" ghalkemm il-proposal kienet taqra' "demolition of existing building and construction of residential units and underlying garages."

"The Malta Environment & Planning Authority hereby amends development permission granted in application number 0502/05, in accordance with the application and plans described above, subject to the following conditions:

5. b) It should be noted that a third party may have the right of appeal against this permission. Any development which is carried out when such an appeal has been made, or until the time limit for the submission of such appeal has expired, is undertaken at the risk that this permission may be revoked by the Planning Appeals Board or quashed by the Court of Appeal.";

Il-Bord innota illi fil-file PA 502/05 saru zewg talbiet ghal minor amendments fuq l-istess estensjoni tal-washrooms kif approvati f'PA 4111/06 mill-Perit tal-applikant datati 19 ta' Settembru 2007 mill-Perit tal-applikant datati 19 ta' Settembru 2007 u 10 ta' Lulju 2008 kif jinsabu a fol 50 u fol 58 ta' PA 502/05 u dawn gew approvati fit-23 ta' Novembru 2007 u fis-17 ta' Novembru 2008 u dana fil-mroi tal-appell odjern.

Ra r-risposta tal-Awtorita ipprezentata fil-31 ta' Mejju 2007 minn Mario Scicluna f'isem Appeals Unit, MEPA :-

## "1.0 THE PROPOSAL

This application seeks the full development permission to construct washrooms on the roof of two flatted villa developments approved by PA 502/05. The proposed washrooms are to be accessed by a flight of stairs which extends from the underlying levels.

## 2.0 COMMENTS ON APPELLANT'S ARGUMENTS

a. In his request for Appeal, appellant has stated that the DCC acted irregularly and not in line with PDG article 10.2 (a) since the requested washrooms and stairhoods should not have exceeded a combined floor space of 36 sq.m. It was also claimed that the description is misleading in that although it mentions demolition works and construction of a new building, in fact, it only relates to amendments to the previous permit.

b. On the other hand the Authority notes:

c. While it is correct that stairwells and washrooms on Semi-Detached and Detached Dwellings fall under article 10.2 of PDG 2005, one has to note that this policy also highlights the criteria which such structures should abide with since their utilization is recognized in modern buildings.

d. This policy states that:

“A stair hood and a washroom may be permitted on the roof of a semi-detached or detached villa provided that:

(a) the total (combined) floorspace of the stair hood and washroom does not exceed a maximum area of 36 square metres measured externally;

(b) the washroom/stairwell does not exceed an internal height of 2.8 metres and does not exceed an external height of 3.4 metres measured from the external roof level, unless it is permitted to be higher when services are located at this level as provided for in policy 13.5”

e. The interpretation of this policy is that in cases of semi-detached buildings, this 36 sq.m. floorspace could be utilized by each of the two units and not shared between the two owners. In this particular case, each block consists of more than one unit and hence two washrooms (with stairhoods) can be permitted at roof level.

f. As regards to the description of this application, the Authority notes that the application form showed clearly that the Category of this application was marked as “B7 – Amended development application” and the submitted drawings clearly show (with conventional colours) that the application relates to the construction of washrooms and stairhoods at roof level. This information was considered to be in line with the normal procedures in such cases by the Directorate and there was not doubt as to the actual merits of this application.

Conclusion. In view of the above arguments, the Malta Environment & Planning Authority respectfully requests

the Planning Appeals Board to confirm the decision as issued by the Development Control Commission, whereby an approval for development permission was issued.";

Ra s-sottomissjonijiet tal-Avukat Dr. Franco Vassallo fl-ittra tieghu datata 13 ta' Gunju 2008 li taqra' kif gej :-

"Appellant submitted two grounds of appeal.

Ground A.

that the Development Control Commission acted irregularly and against the specific rules stated in the Policy and Design Guidelines article 10.2 (a) in that washrooms and stair hood should not have a combined floor space exceeding 36sq meters.

The approved development exceeds this allowable area and therefore the permit should be revoked accordingly.

The directorate is arguing that it's interpretation of this policy is that whereas it is conceded that the total floor area should not exceed 36m<sup>2</sup> once a villa has been converted into two units then the limit of 36m<sup>2</sup> applies to both semi detached units.

It is submitted that this is not a correct interpretation for the following reasons:

Article 10.2 relates to "the roof of a semi detached or detached villa ... " Once demolition of a villa is carried out and the developer constructs four or six units as semi detached units (two or three per semi detached unit) then with due respect the relevant policy should not be article 10.2 as applied. Article 10.2 as interpreted, allowing two units of 36sq m would be applicable if the development consisted of two (2) semi-detached villas;

It is evident that the matter is not one of interpretation as the Directorate is alleging but clearly a voluntary application of a wrong policy to justify development which could later be converted into independent living quarters.

It is a well established principle that what is clear should not be subject to interpretation. The following is the closing text of article 10.2.

"Washrooms for flatted dwellings in semi detached or detached villas should be integrated and designed as one structure and contained with the 36sq m floorspace in (a) above".

The Board will appreciate that no reasons were given why policy 10.1 which relates to washrooms on multiple dwellings was discarded.

ii) The original DPR recommended a refusal because the above views were held to be correct. Subsequently the report was changed to one in favour of the development. Generally DPR's are changed when applicant presents compelling and objective arguments/proof showing that the Directorate acted differently in other similar applications.

In this application Arch Fleur Ebejer confirmed on oath the report was changed following instructions by Arch Sladden. The only indication this Board has on why the recommendation was changed can be found in page one of the DPR.

"The architect also concluded by saying that a multitude of applications have been permitted in this manner and it is indeed pointless quoting such cases."

Since no prior applications of the sort were referred to by applicant's architect and no such permits were found in the relative file, applicant's architect when invited to present such evidence of prior permits given failed to identify even 1 single similar case. The permit referred to at appeal stage was not relevant to the case at hand.

Ground B.

The application description Demolition of existing building and construction of residential units and underlying

garages. is misleading and prima facie irregular since the application consists of an amendment to an existing permit PA 502/05 which granted the described development, solely for the construction of large washrooms to be potentially used as penthouses.

i) The Directorate dismissed this ground of appeal by stating that "the application form showed clearly that the category of this application was marked as B7-Amended development application ... And the submitted drawings clearly show (with conventional colours) that the application relates to the construction of washrooms and stairhoods at roof level."

ii) The above submissions exposes a serious lack of understanding and appreciation of the purpose of having a correct description of the proposed development. The description is not asked for capriciously. Article 34(2) of the Development Planning Act requires ad validitatem that every application should be published in a local newspaper. The publication is made so that third parties can have the opportunity to object on planning grounds. It therefore is logical to expect that publication is made of the correct description of the proposed development. It is not legally acceptable that a wrong description of the proposed development is published because in such a case third parties would be misguided in deciding whether to object or not.

It is risible to state that the Directorate did not object because it felt that the drawings and the form used were the correct ones! The Directorate is there to put into affect the law in order to protect citizen's rights and not to assume that if it is acceptable to it it is legal. What about third parties who were misled by the description? Are the drawings and forms published in the media?

It is submitted that such a lack of adherence to the basic principles of the law concerning publication should bring about the automatic annulment of this permit because it was not published according to law. This reasoning is consonant with the decision of the Court of Appeal in the

names Perit Wilfred Debattista vs MEPA of the 6th May 2008 whereby the lack of publication of an application wherein plans were changed rendered the process flawed.";

Ra s-second statement tal-Awtorita datata 27 ta' Gunju 2008 minn Mario Scicluna f'isem Appeals Section, MEPA:-

"Remarks by the Authority to the final submissions made by appellant dated 13th June 2008, which copy seems to have been ccd only to Dr. Vassallo's client, to his client's own architect and to the authority but it does not seem to have been ccd to applicant or his architect.

In these submissions, appellant has put forward two main issues, that relating to the interpretation of the relevant policy and reference to Article 34(2) regarding the publication of this request for development. The Authority has noted all these arguments and notes that:

As regards Policy 10.2 of the Policy and Design Guidance 2005, the main heading reads: Stairwells and Washrooms on Semi-Detached and Detached Dwellings, this means that this policy deals with the criteria to be used when assessments are made on requests for stairwells and washrooms on dwellings which are either detached or semi-detached. Consequently appellant's last note of submissions that this only applies where the development consists of 2 semi detached villas does not apply.

This policy continues:

(a) the total (combined) floorspace of the stair hood and washroom does not exceed a maximum area of 36 square metres measured externally;

It is important to note that the word "combined" refers to the stair hood and washroom (36sq.m.) so that no one could claim 36sq.m. for a washroom and another 36 sq.m. for the stair hood.



Consequently if flatted dwellings have been erected as a detached dwelling, 36 square metres are allowed. If these flatted dwellings are erected as one semi detached dwelling, 36 square metres are allowed. If these are erected as 2 detached dwellings, each one has an allowance of 36 square metres i.e. a total of 72 square metres. Similarly if these are erected as 2 semi detached villas, a total of 72 square metres are allowed. The policy refers to a combined floorspace of the stairhood and washroom of one semi detached of 36 square metres. Since the site under appeal can accommodate 4 semi detached villas, 36 square metres x 2 per block are allowed. In the case under appeal we have 1 block with 4 flatted dwellings built as 2 semi-detached, consequently meriting 36 square metres x 2, and similarly on the other side we have 4 flatted dwellings built as 2 semi detached meriting also 36 square metres x 2.

This policy in fact ends with the statement that:

Washrooms for flatted dwellings in semi-detached or detached villas should be integrated and designed as one structure, and contained within the 36 square metres floorspace in (a) above.

This closing statement clearly states that (with reference to part (a)) when the 36 sq.m. of total roof structures are allowed either for a villa (ie. one dwelling = one washroom + one stair hood of a total of 36sq.m.) or in the case of semi-detached dwellings (ie. more than one dwelling = more than one washroom + more than one stair hood) the roof structures in both case are to be designed and positioned on the roof so as to be seen as one whole structure and not several small roofed structures scattered all over the roof area.

In the case under appeal, the development consists of more than one dwelling and the upper two semi-detached dwellings are interconnected to the roof structures (each having a washroom and a stair hood). However the design of the two washrooms and the two stair hoods respect the above policy and while being owned and

connected to two separate dwellings, the overall design portray a single structure located in the middle of the roof area. In this respect, the Authority reiterates that the washrooms as approved as well as their interconnected stair hoods are in line with the above policy in terms of massing, design, as well as the other considerations of the same policy.

As regards to the second issue of these submissions, the Authority acted according to law when it published the proposal in line with the application form as submitted by applicant in this application. In fact what was published was the actual proposal of the applicant on his application form. From the form itself one can then see that this is an amendment to this proposal. The Authority disagrees with the claim that 3rd parties may have been misled by the way this application was published since appellant did in fact file his objections in time and even lodged a 3rd party appeal which is the merit of these submissions, so there is no juridical interest in appellant as to the contestation of this issue.

Additionally, appellant cannot make representations on behalf of unknown 3rd parties but can only make objections relating to his interest vis-a-vis the latest permit as issued. If anything, the permit as issued has granted a development which is less than the proposal as published and which included the demolition and construction of residential units. Furthermore, the case cited of Perit Wilfred Debattista vs MEPA of 6th May 2008 had different considerations to this case under appeal since the actual decision was based on the fact that the architect was actually misled and as a result did not file his appeal on time. His juridical interest was evident in that if he had known of the correct proposal beforehand, he would have been able to institute his appeal on time. This is completely different to this case where an appeal has in fact been entered, apart from there being no incorrect publication by the authority nor did the publication as printed prejudice appellants in this appeal.

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Consequently the Authority respectfully reiterates that appeal should be dismissed.";

Ra l-affidavit tal-Perit Fleur Marie Ebejer datat 25 ta' Lulju 20008 bhala Team Manager fil-MEPA dwar il-kas:-

"I the undersigned Perit Fleur-Marie Ebejer, Identity Card No. 253577(M), in my capacity as Team Manager within Development Services at the Malta Environment and Planning Authority, solemnly swear on oath the following:-

My role in the processing of PA 4111/06 was as a Team Manager, the endorsing officer representing MEPA. Further to the reply from architect to the development planning application report, clarification was sought on the interpretation of Policy 10.2 of DC 2005 through the Unit Manager of the Development Services Unit. The proposed development was re-assessed in the light of this clarification and it was concluded that the proposed washrooms were acceptable since these were compliant with Policy 10.2 of DC 2005. The DCC was informed of the Directorate's assessment through NTC No. 3 in the DPA report"

Il-Bord ra l-file PA 502/05 li kien effettivament jirrigwarda l-istess fond kontemplat f'PA4111/06.

Sema' lill-partijiet jitrattaw l-appell.

Ikkunsidra:-

Illi l-appell huwa bbazzat principalment fuq Section 10.2 tal-Policy and Design Guidance fejn jintqal inter alia:-

“that a stairhood and washrooms of a semi-detached or detached villa may be permitted provided that:-

a) the total (combined) floorspace of the stairhood and washrooms does not exceed a maximum area of 36 sq.m. measured externally and later in note after subhead “e” ta' l-istess section.

b) Washrooms for flatted dwellings in semi-detached and detached villas should be designed and contained within 36 sq.m. of floorspace in 'a' above.

Illi l-Bord innota li ghalkemm id-deskrizzjoni fl-applikazzjoni ta' PA 4111/06 kienet taqra' l-istess bhal dik fl-applikazzjoni ta' PA 502/05 – billi din kienet 'amended' fl-application fis-sezzjoni ta' l-emendi imbaghad tnizzel 'extension to washrooms'. Dan l-agir ceratment kien 'misleading' kif allega l-appellant ghal min mhux mithla tal-procedura tal-applikazzjoni.

Il-Bord, dwar l-interpretazzjoni ta' 10.2 tal-Policy and Design Guidance jara li anke jekk ikun zewg semi-detached villas li ser jinbnew dawn dejjem ghandhom jidhru qishom wahda u ghandhom jokkupaw superficji daqskemm tkun tokkupa villa. Issa f'section 10.2 'a' hemm innissel car li l-washroom u l-stairwell ma ghandhomx jeccedu 36 metru kwadru mkejla minn barra.

Ghaldaqstant hekk kif two semi-detached villas ghandhom flimkien jottempraw ruhhom mal-kundizzjonijiet rigwardanti d-detached villa ghal dak li hu daqs u dehra l-istess haga ghandha tapplika ghall-istrutturi konsistenti f' 'washrooms u stairwells' fuq semi-detached villas li s-superficji ta' l-istess ghandhom ikunu bhal kif mitlub ghal detached villa u cioe' kif approvati fil-permess PA 502/05 bid-daqs limitata ghal dak permess f'10.2a tal-Policy and Design Guidance u cioe' sitta u tletin metru kwadru ghal kull zewg semi-detached villas.

Illi l-Bord ghalhekk jilqa' l-appell tal-objector u jordna lill-Bord tal-EPC sabiex thassar il-permess PA 04611/06 ghal dak li jirrigwarda l-bini kollu tas-sular tal-bejt, ukoll kif amendat fiz-zewg permessi tal-minor amendements imsemmija iktar 'l fuq.

## **Ikkunsidrat**

L-aggravju tal-appellant huwa

Kopja Informali ta' Sentenza

1. Il-Bord interpreta hazin l-artikolu 10.2(a) tad-Development Policy and Design Guidance 2007 u kwindi applika hazin il-ligi ghal fatti tal-kaz.

Din is-sentenza qed tinghata fuq l-eccezzjoni preliminari tal-Awtorita u ta' Oliver Zammit dwar jekk l-appell sarx fit-terminu utili tal-appell jew le u dan kif gie verbalizzat u degretat fit-13 ta' Marzu 2013 u 10 ta' April 2013.

### **Eccezzjoni li l-appell sar fuori termine**

Il-fatti li fuqhom hi msejsa din l-eccezzjoni huma s-segwenti. Id-decizjoni mertu ta' dan l-appell ittiehdet mill-Bord tal-Appell dwar l-ippjanar fid-19 ta' Dicembru 2011. L-appell iddahhal minn Sandra Grech fis-6 ta' Jannar 2012.

L-appellati qed jikkontendu illi peress li d-decizjoni inghatat mill-Bord tal-Appell kif kostitwit bil-Kapitolu 356, it-terminu tal-appell minn tali decizjoni hu ta' hmistax-il jum skond l-artikolu 15(10).

Dak li wasal ghal din il-kwistjoni specifika hu l-iter tal-emendi li saru fil-ligi tal-Ambjent u l-ippjanar, kif kienet fil-Kapitolu 356 u kif sar fil-Kapitolu 504.

L-Att tal-2010 dahhal fis-sehh il-Kapitolu 504 u t-Tribunal ta' Revizjoni tal-Ambjent u l-ippjanar flok il-Bord tal-Appell u l-ippjanar u bl-Avviz Legali 511 tal-2010 dahlu fi-sehh certi provvedimenti tal-imsemmi Kapitolu fosthom l-artikolu 41 tal-Kap. 504 li dahal fis-sehh fil-31 ta' Dicembru 2010.

Mehud wahdu, dan il-fatt seta' fisser li t-terminu tal-appell minn decizionijiet tal-Bord tal-Appell ghal quddiem il-Qorti tal-Appell hu ta' ghoxrin jum u s-sentenza mertu ta' dan ir-rikors ta' appell kienet tkun wahda valida qua validita tal-prezentata tieghu fit-terminu quddiem din il-Qorti.

Pero bl-Avviz Legali 512 tal-2010, mhux l-artikoli kollha tal-Kap. 356 gew abrogati tant illi l-artikolu 15 cioe t-terminu tal-appell quddiem il-Qorti tal-Appell Inferjuri minn

decizjonijiet tal-Bord tal-Appelli cioe t-terminu ta' 15-il jum mid-decizjoni, baqa' mhux mittiefes, u hekk ghadu sallum.

Prima facie dan ifisser illi l-ligi naqset milli ticcara l-pozizzjoni legali tat-termini ta' appell liema termini huma ta' ordni pubbliku u ma jistghux ghalhekk jigu injorati u jaghtu lok ghal kwalsiasi interpretazzjoni legali fis-sens li ma ghadhomx fis-sehh. Il-Qorti ssibha ferm difficli li fic-cirkostanzi meta gew specificati f'zewg avvizi legali, wiehed wara l-iehor kronologikament, li jittrattaw id-dhul fis-sehh ta' artikoli specifici tal-Kap. 504 u l-abrogazzjoni ta' artikoli specifici tal-Kap. 356, il-legislatur kellu lapsus rigward it-terminu ta' appell, cioe wiehed mill-aktar elementi importanti fl-iter processwali ta' applikazzjonijiet ta' ippanar.

Jista' jigi argomentat illi bid-dhul fis-sehh tal-artikolu 97(5) tal-Kap. 504 fit-30 ta' Novembru 2010 il-kwistjoni kienet cara billi l-funzjonijiet, atti, jeddijiet, passiv u obligazzjonijiet li kellu l-Bord tal-Appell ghadda f'idejn it-Tribunal tal-Appell u kwindi ghalhekk l-proceduri tal-appell quddiem il-Qorti tal-Appell kellhom jigu regolati skond dak li jipprovdi l-Kapitolu 504.

Din il-Qorti ma taqbilx ghal zewg ragunijiet. Fl-ewwel lok dan l-artikolu jitkellem biss dwar il-funzjonijiet tat-Tribunal u mhux dak li jigri wara d-decizjonijiet tat-Tribunal, cioe proceduri li t-Tribunal ma ghandu ebda kontroll jew drittijiet fuqhom jew dwarhom.

Fit-tieni lok l-Avviz Legali 27 tal-2011 irrendiet il-pozizzjoni bejn decizjonijiet tal-Bord tal-Appell u t-Tribunal ta' Revizjoni wahda cara. Dan l-Avviz Legali ghamel distinzjoni netta bejn decizjonijiet li kellhom jinghataw mill-Bord tal-Appell hekk kif kien kostitwit bil-Kapitolu 356 u dak mit-Tribunal ta-Revizjoni kostitwit bil-Kapitolu 504. Dan l-Avviz Legali halla lil partijiet kollha involuti fil-vertenzi minghajr dubbju dwar il-pozizzjoni legali vis-à-vis l-applikazzjoni tal-Kapitolu 356 u 504 fl-artikoli applikabbli ghalihom. Dan l-Avviz Legali ghamilha cara illi l-Bord tal-Appell li kien gie sostitwit mit-Tribunal ta' Revizjoni fil-Kap. 504 ma spiccax kompletament bl-introduzzjoni tar-regim

il-gdid tat-Tribunal ta' Revizjoni. Dawk il-pendenzi kollha quddiem il-Bord tal-Appell differiti ghas-sentenza qabel il-31 ta' Dicembru 2010 kellhom jinghataw mill-istess Bord kif kien kostitwit skond artikoli 2(1) tal-Avviz Legali 27 tal-2011. Ghalhekk dawn id-decizjonijiet ma kienux qed jinghataw mit-Tribunal ta' Revizjoni izda mill-Bord tal-Appell taht ir-regim tal-Kap. 356 u hawn ghalhekk tispjega ruhha z-zamma fis-sehh tal-artikolu 15 tal-Kap. 356 ghaliex huma d-decizjonijiet mill-Bord tal-Appelli li ghandhom terminu ta' appell kif impost bl-artikolu 15. It-Tribunal ta' Revizjoni gie mgħobbi biex jisma' u jiddeciedi l-appelli l-oħra hekk kif elenkati specifikament bl-artikoli 2(2) tal-Avviz Legali 27 tal-2011, u ghal liema japplikaw it-termini ta' appell specifikat fl-artikolu 41(6) tal-Kap. 504.

Dan jidher li kien il-hsieb tal-legislatur u mhux il-kompitu ta' din il-Qorti li tidhol fi kwistjonijiet oħra li anki jekk validi minn aspetti legali diversi ma jaqghux fil-gurisdizzjoni tagħha f'din is-sede.

Ma gie specifikat ebda terminu f'ebda ligi jew provvediment legali li d-decizjonijiet tal-Bord tal-Appell kellhom jinghataw entro data specifika biex japplika l-provvedimenti tal-terminu ta' appell tal-Kap. 504 a skapitu ta' dak previst mill-Kap. 356 u l-argumentazzjoni tad-difensur tal-appellant li kien hemm xi intendiment li l-Bord tal-Appell jiddeciedi l-appelli entro certa data ma ssibx ebda sostenn la fattwali jew legali.

Hu car li l-vertenza in kwistjoni kienet ghas-sentenza quddiem il-Bord tal-Appell sa mis-26 ta' Novembru 2008 skond l-inkartament tal-proceduri quddiem il-Bord tal-Appell dwar l-lppjanar u fil-fatt id-decizjoni ittiehdet mill-istess Bord skond it-termini tal-Avviz Legali 27 tal-2011. Kwindi kien japplika ghal dik id-decizjoni t-terminu tal-appell skond l-artikolu 15 tal-Kap. 356 li kienet tkopri l-appelli mis-sentenzi tal-Bord, artikolu li kien u għadu in vigore sallum.

Jidher mill-atti illi l-appell sar fis-6 ta' Jannar 2012 wara d-decizjoni tal-Bord tal-Appell dwar l-lppjanar tad-19 ta' Dicembru 2011 u kwindi tmientax-il jum wara li nghatat id-

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decizjoni u kwindi fuori termine dak li jrid l-artikolu 15 tal-Kap. 356. Dan iwassal ghal konkluzjoni illi l-appellati ghandhom ragun fl-eccezzjoni tagghom.

### **Decide**

Ghal dawn ir-ragunijiet il-Qorti qed tilqa' l-eccezzjoni tal-appellati li l-appell sar fuori termine u ghalhekk qed tiddikjara null u bla effett l-appell ta' Sandra Grech. Bl-ispejjez ghall-appellanta.

**< Sentenza Finali >**

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