



**QORTI TAL-MAGISTRATI
(GHAWDEX)
(GURISDIZZJONI SUPERJURI)
(SEZZJONI GENERALI)**

**MAGISTRAT DR.
JOSETTE DEMICOLI**

Seduta tal-25 ta' Ottubru, 2013

Citazzjoni Numru. 19/2013

**L-Avukat Dottor Carmelo Galea as mandatory of
Veronica Flores Castro Thompson**

Vs

Gillian Earl

The Court,

Having seen plaintiff's sworn application which states:

1. By virtue of a deed in the records of Notary Enzo Refalo of the 7th January 2008, John Telford Thompson, known as Jack, and Gillian Earl acquired in equal parts between them the flat internally marked number 7 forming part of the block of flats without number known as 'Patrick Court', Block A, Triq il-Kappillan Frangisk Mizzi, formerly

Triq gdida fi Triq Simirat, Ghajnsielem, Ghawdex, together with garage internally marked number 2 in basement level, underlying and forming part of the same block, the whole forming part of 'Patrick Court' Block A and Block B, built on a plot of land of 370sq.m., and bounded on the north with the street, south with property of Patrick Mercieca and on other sides with property of the Gozo Diocese;

2. John Telford Thompson died in Bahrain on the 23rd July 2008 and regulated his succession by a will drawn up in the English form on the 4th May 2007 whereby he appointed his wife Veronica Castro Thompson as his sole heiress, whilst appointing as his executors William Henry Thompson and Robin Boncey;

3. The executors duly obtained Grant of Probate according to English law from the High Court of Justice on the 18th August 2008;

4. The declaration of transfer *causa mortis* relating to the succession of John Telford Thompson was published by Notary Enzo Refalo on the 12th November 2009;

5. Plaintiff wishes to terminate the community of ownership existing between the parties relating to the said properties, which now belong as to one half each to the defendant and to Veronica Flores Castro Thompson;

6. Plaintiff has acquired a valuation of the properties which is being exhibited with this lawsuit;

Plaintiff asked the Court to:

1. Declare that the properties above described belong as to one half to defendant and one half to Veronica Flores Castro Thompson;

2. Declare that these properties cannot be fairly physically divided between the parties;

3. Consequently order the sale by auction of the said properties so that the proceeds can be divided between the parties according to their respective share, with the admittance of extraneous bidders and on the basis of the valuation herewith annexed, or failing that on the basis of a valuation to be drawn up by a court appointed architect.

With costs.

Having seen that defendant has been duly notified with the sworn application and documents annexed. No sworn reply was filed. However, during the sitting of the 6th June 2013 defendant declared that she agrees with the valuation given by Architect Bigeni of the apartment in question which valuation has been exhibited as 'Doc I' in the acts of this case.

Having seen that during the sitting of the 20th June 2013, defendant informed the Court that she will be filing a note whereby she asks the Court to be given sometime within which there will be an effort to sell the house in the open market. Dr Carmelo Galea informed the Court that he had received a note by Dr Angele Formosa and that he was not objecting in principle to what was being asked and requested that the case will be however adjourned for judgement. The Court granted defendant till the end of August 2013 to find a prospective buyer in the open market and adjourned the case for judgement for today.

Having seen all the acts and documents of the case.

Considers:

By virtue of a contract published on the 7th January 2008 in the acts of Notary Dr Enzo Refalo, Gillian Earl and John Telford Thompson bought in equal parts the flat internally marked number 7 forming part of the block of flats without number known as 'Patrick Court', Block A, Triq il-Kappillan Frangisk Mizzi, formerly Triq gdida fi Triq Simirat, Ghajnsielem, Ghawdex, together with garage internally marked number 2 in basement level, underlying and forming part of the same block, the whole forming part of

'Patrick Court' Block A and Block B, built on a plot of land of 370sq.m., and bounded on the north with the street, south with property of Patrick Mercieca and on other sides with property of the Gozo Diocese.

John Telford Thompson died on the 23rd July 2008 leaving as his sole heiress plaintiff.

It has been proven and in fact there is no contestation about the fact that the apartment and garage belong as to one half to plaintiff and as to one half to defendant. There is also no contestation that this apartment cannot be fairly physically divided between the parties.

As for the valuation of these properties Architect Bigeni, by means of his report¹, valued this property at one hundred and eighty thousand Euro (€180,000). Defendant declared that she agrees with such valuation.

As for the costs of the case the Court deems it fit that these should be borne equally between the parties since it has not been proven that defendant was somehow at fault that these properties have not been sold.

Hence, for the above-mentioned reasons the Court accedes to plaintiff's requests and thus:

1. Declares that the properties above described belong as to one half to defendant and one half to Veronica Flores Castro Thompson;
2. Declares that these properties cannot be fairly physically divided between the parties;
3. Consequently orders the sale by auction of the said properties so that the proceeds can be divided between the parties according to their respective share, with the admittance of extraneous bidders and on the basis of the valuation annexed that is one hundred and eighty thousand Euro (€180,000).

¹ Dok I at fol 22 of the file

Kopja Informali ta' Sentenza

Costs of the case and those related to the sale by auction are to be borne equally by the parties.

< Sentenza Finali >

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