



QORTI TA' L-APPELL

**ONOR. IMHALLEF
MARK CHETCUTI**

Seduta tat-22 ta' Jannar, 2014

Appell Civili Numru. 47/2012

Joseph Genovese

vs

L-Awtorita ta' Malta dwar l-Ambjent u l-Ippjanar

Il-Qorti,

Rat ir-rikors tal-appell ta' Joseph Genovese tas-17 ta' April 2012 mid-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tad-29 ta' Marzu 2012 li rrifjuta PA 4737/01 'to sanction existing development consisting of a residential unit, which was developed through an extension to an existing store';

Rat ir-risposta tal-Awtorita li ssottomettiet li d-decizjoni tat-Tribunal ghandha tigi konfermata u l-appell michud;

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

Rat id-decizjoni tat-Tribunal li tghid hekk:
Ikkunsidra:

A. Il-Kummissjoni ghall-Kontroll ta' I- Izvilupp, fit-22 ta' Lulju 2003, ikkonfermat ir-rifjut ghall-applikazzjoni ghall-permess tal-izvilupp PA 4737/01 "Il-Barumbara, Triq il-Girgenti, Siggiewi: To sanction existing development consisting of a residential unit, which was developed through an extension to an existing store."

Il-hdax ir-raguni ghar-rifjut kienu s-segwenti:

"1. The site lies outside the limits for development defined in the Temporary Provisions scheme for Siggiewi and so it is located in an area which it is proposed should remain undeveloped and open. The proposed development would run counter to this scheme and would represent unacceptable urban development in the countryside.

2. The proposed development conflicts with Structure Plan Policy SET 11, which does not permit urban development outside existing and committed built-up areas. The development does not fall into a category of non urban development which may be permitted outside existing or committed built-up areas in accordance with Paragraph 7.6 of the Structure Plan. The proposed development also therefore runs counter to policy BEN 5.

3. There is no justification for the development of this site as required by Structure Plan policy SET 12. It is apparent that there are no reasons from a planning point of view why the proposed development can not be located in an area designated for development or in an existing built up area.

4. The site lies in a Rural Conservation Area (as designated by the Structure Plan and indicated on the Key Diagram). The proposal does not comply with Structure Plan policy RCO 2 which clearly states that no form of urban development will be permitted within Rural Conservation Areas.

5. The proposal does not fall within one of the categories of development, namely structures or facilities essential to agricultural, ecological or scenic interests, which may be permitted in Rural Conservation Areas where they meet the principles and criteria set out in Structure Plan policy RCO 4. The proposal is not essential to, nor does it enhance agricultural, ecological, or scenic interests.

6. Structure Plan policy RCO 4 provides that, particularly within Rural Conservation Areas, areas of scenic value will be protected and enhanced. The area in which the site is located is of considerable scenic value. The proposal would detract from this, and so it would conflict with Structure Plan policy RCO 4.

7. The proposal runs counter to Circular PA 2/96 (due to illegal concrete platform, various footpaths, boundary walls enclosing the site, a gate and tampering with the existing landscaping, which are not being included to sanction in this application) which states that "when existing building development on a site is wholly or partly illegal the DCC will not consider a development permit application relating to new development on that site, unless the development is regularised."

8. The original store neither had historical nor architectural importance and that the building was not redundant for its former use since an extension had also been proposed (and refused). The dwelling has been extended from a 28m² store to 84m² and a further 22m² in paving and therefore a substantial amount of re-building has been carried out. It is therefore evident that through this extension the character of the original building was completely altered, along with its setting. The development which was carried out has not respected the original setting and its surrounding countryside. The development can therefore be said to run counter to Paragraphs 8.1 (i), (ii), (iii), (vi) and (vii) of the development policy paper PLP 20 Developments Outside Built-up Areas, with regards to the change of use from a store into a residence.

9. The need for the development cannot be explained in planning terms - there is not justification for the applicant to reside in this area. The extension which was carried out did not form part of the curtilage of the building – good quality agricultural land and areas of ecological importance were taken up in the process. The scale of the extension does not respect the original character of the building and it visually dominates the site, along with the illegal boundary walls and pathways. The extension which was carried out is excessive in relation to the size and proportions of the original building. The visual impact of the development is therefore deemed to be unacceptable. Paragraph 2.5.1 of Policy and Design Guidance – Farmhouses and Agricultural Buildings, also emphasises the importance of the sensitive conversions of rural buildings. The development therefore runs counter to Paragraphs 8.2 (i), (iv), (v) and (viii), to Section 2 of the Policy and Design Guidance – Farmhouses and Agricultural Buildings.

10. The area is scheduled as an Area of High Landscape Value and as a Level 3 Area of Ecological Importance, whereby control is necessary to preserve habitats/species/features in adjacent sites and where only small scale development is permitted, subject to the development being consistent with other policies. The development therefore runs counter to Structure Plan policies RCO 1, 12 and Paragraph 15.39 of the Explanatory Memorandum, which specify the above criteria.

11. In the draft North West Local Plan policy related to Level 3 AElS, it is stated that no residential, industrial, commercial, tourism, infrastructure development or public utility works shall be permitted. A satisfactory environmental impact assessment is to be undertaken and approved by the Planning Authority. Moreover, the site falls in the Buskett Action Plan area, where there is an opportunity to gain National and International recognition for Buskett. Its environmental management is therefore very sensitive and of utmost importance to gain this

recognition. This development would therefore compromise the objective of the Local Plan and would inherently run counter to Structure Plan Policy BEN 4 and SET 8."

B. In-nota tal-Perit Dott. Edwin Mintoff għall-Appellant, ipprezentata fit-12 t'Awissu 2003, senjatament il-punti segwenti:

"Prior to this development to sanction, the building included 28m² (not 24m² as alleged in the refusal report) of roofed rubble construction and a further 28m² of lightweight structure canopy. The development as stands today includes the same 28m² of roofed rubble construction and 28m² of light weighting roofing exactly as per that prior to development together with a further 28m² of newly built roofed rubble construction room around the light weight roofed room. Therefore the pre-existing building measuring 56m² in footprint now measures 84m² , this is in contrast to the information contained in the refusal report.

1. Referring to Section 8 of the policy PLP 20: Development Outside Built Up Areas, it should be noted that the development to sanction includes a farmhouse measuring 84m² in footprint. This area does not exceed that allowable in Section 8. In addition the scale and design of the farmhouse respects the character of its surroundings and does not detract from the local amenity or views. This is in compliance with the requirements of Section 8 and the development to sanction cannot be seen as a form of urbanisation.

2. The site is committed to its use as an agricultural facility and controls an agricultural area of over 1000m² . The farmhouse being proposed to sanction is a very small scale single storey development and is well within the 150m² limit for farmhouses ODZ. Its impact is minimal and does not detract from local amenity or vies. The proposal does not counter the recommendation offered in Section 8 of the policy PLP 20: Development Outside Built Up Areas (see item 1 above). The proposal relates to

rural development as per Paragraph 7.6 of the Structure Plan Explanatory Memorandum and therefore it is unreasonable to claim that it will lead to urbanisation. Therefore the SP policy SET 11: Development ODZ is not applicable.

3. We reiterate that the proposal relates to rural development as per Paragraph 7.6 of the Structure Plan Explanatory Memorandum and therefore will not lead to urbanisation. Therefore the SP policy SET 12: Development ODZ is not applicable.

4. We reiterate that the proposal relates to rural development rather than urban development. The farmhouse to sanction is set in over 1000m² of prime agricultural land and complies with the requirements set out in Paragraph 7.6 of the Structure Plan Explanatory Memorandum. The unit to be sanctioned is related directly to genuine agricultural use, thereby complying with policies AHF 5 and CO2 that allow for development necessary for the efficient use of agricultural land. The rubble construction of the farmhouse, contribute significantly to an organic and sporadic perception.

5. The farmhouse is of rubble construction and its small size, low height and isolated location contribute significantly to an organic and sporadic perception. This represents an ideal example of organic growth that is commonly associated with rural scenery. For these reasons, policy RCO 4, is not applicable.

In conclusion we wish to reiterate that the farmhouse to sanction is situated within over 1000m² of prime agricultural land, it is in line with the requirements of Section 8 of the approved policy PLP 20: Development outside Built up Areas and cannot be seen to represent urbanisation. Furthermore, the rubble construction of the farmhouse to sanction, combined with its small size, sporadic perception and will not detract from any local views of visual amenity.”

C. In-nota tal-Perit Joseph Bezzina għall-Awtorita', ipprezentata fit-18 ta' Novembru 2003, inter alia l-punti segwenti:

"3.1 Prior to the consideration of the planning issues related to this application, it is imperative to consider and assess various points, which are not clear. The proposal seeks to sanction an illegal extension to an existing room and its use for residential purposes. However, the description of the proposed works lacks any reference to extensive landscaping works, walls and paths carried out without planning permission.

3.2 Without prejudice to the above, the Planning Authority refers to various Structure Plan policies and Policy Papers related to development Outside Development Zone (ODZ), which give clear guidance on the acceptable forms of development that may be considered. To this effect, the proposed development to be sanctioned is not considered as an acceptable form of development ODZ.

3.3 Notwithstanding the blanket prohibition against development outside areas designated for urban uses, minor extensions to existing buildings in the countryside may be accepted, provided planning and environmental criteria are met. In particular, Policy Paper PLP 20, related to development ODZ, approved in 5th January 1995, considers the latter possibility only on certain circumstances as listed in par. 8.2. The emphasis in this case is clear and refers to genuine justification why the proposed development cannot be accommodated within the limits for development.

3.4 Reference is also made to par 1.4 of the Policy & Design Guidance for farmhouses and agricultural buildings, where eligibility criteria as outlined in par 1.2.1 of the latter policy will be adopted in considering whether the proposed development is essential to the needs of agriculture. The appellant fails to meet the eligibility criteria and thus the proposed development cannot be justified.

3.5 The latter policy considers in detail other issues related to site area, visual impact and residential development. The appellant claims that the area of the proposed farmhouse does not exceed that allowable area considered in this policy and the proposal respects the character of its surroundings. In this regard, MEPA claims that the proposed extension has affected fresh land and thus, loss of agricultural land. It is also to be noted that the proposed extension involves an additional footprint of approximately 56m², almost twice the existing footprint prior to any illegal development on site, this without including the extensive paving and landscaping works. Section 8 (iii) states in unequivocal terms that the existing building should be capable of conversion without substantial rebuilding. In this case it is clear that the original room is far from adequate for conversion, and in fact necessitated an extension of 56m². If this development were to be accepted, any small room in the countryside could be converted into a residential farmhouse. This is surely against all policies regulating development ODZ, which seek to control and limit urban development ODZ, whilst conserving existing rural structures with particular conservation value through rehabilitation and re-use. This is surely not what the appellant proposes in this development subject to appeal. In view of the latter arguments, the proposed development does not meet the required criteria for development ODZ and is therefore unacceptable.

3.6 The site in question lies within a Rural Conservation Area and is designated as an Area of High Landscape Value, an Area of Ecological Value, Level 3, and an Area of Archaeological Importance. The classification of this particular area, and consequently its scheduling, emphasises the conservation value of the area and justifies fully the refusal of the proposed development. The appellant fails to give sound planning justification in favour of the proposed project in this particular site. To the contrary of what the appellant states in his appeal, the proposed development runs counter to various Structure Plan policies as outlined in the refusal, particularly policies SET 11, AHF 5, RCO 2 & 4 and BEN 4."

D. Il-verbal tal-access fuq il-post tas-Seduta numru 5 tal-Bord ta' l-Appell dwar l-Ippjanar, mizmuma fil-11 ta' Frar 2004, precizament il-punti segwenti:

“Il-Bord ra s-sit konsistenti fi trejqa li taghti ghall-izvilupp konsistenti f'estensjoni ghal kmamar rurali.

Iz-zewg nahat tat-trejqa huma landscaped.”

E. Il-verbal tas-Seduta numru 16 tal-Bord ta' l-Appell dwar l-Ippjanar, mizmuma fit-2 ta' Gunju 2004, senjatament il-punti segwenti:

“deher il-perit [Dott. Edwin] Mintoff ghall-appellant li kkonferma illi l-applikazzjoni odjerna ma tkopriex l-izvilupp kollu fuq is-sit.

Il-Bord ghalhekk jiddiferixxi dan l-appell ... sabiex nel frattemp l-appellant jipprezenta applikazzjoni sanatorja”

F. Il-verbal tas-Seduta numru 23 tal-Bord ta' l-Appell dwar l-Ippjanar, mizmuma fl-4 t' Ottubru 2006, precizament il-punt segwenti:

“Il-Bord innota illi dan l-appell gie differit ghall-ahhar darba illum u ghal-prezentata ta' l-applikazzjoni sanatorja u li l-appellant ili mit-2 ta' Gunju 2004 sabiex jipprezentaha u ghaldaqstant jakkorda lill-appellant sa mhux aktar tard mis-17 ta' Jannar 2007 ghal prezentata tal-applikazzjoni sanatorja u fin-nuqqas il-Bord jipprosegwi b' dan l-appell.”

G. Il-verbal tas-Seduta numru 29 tal-Bord ta' l-Appell dwar l-Ippjanar diversament kompost, mizmuma fil-21 ta' Novembru 2007, senjatament il-punt segwenti:

“deheret il-perit Angelique Cremona ghall-appellant li nformat lill-Bord illi l-appellant ipprezenta applikazzjoni sanatorja PA 5752/07.”

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H. Il-verbal tas-Seduta numru 25 tal-Bord ta' l-Appell dwar l-Ippjanar, mizmuma fit-30 ta' Settembru 2009, precizament il-punti segwenti:

“Il-Bord huwa nformat illi l-applikazzjoni pendent, giet michuda mill-Awtorita' ghal ragunijiet procedurali.

Il-perit [Angelique] Cremona [ghall-appellant] informat lill-Bord illi l-appellant ser jerga' jipprezenta applikazzjoni gdida.”

J. Il-verbal tas-Seduta numru 18, mizmuma fil-15 ta' Marzu 2011, senjatament il-punt segwenti:

“deher il-Perit Sandro Cini f' isem il-Perit Dott. Edwin Mintoff ghall-appellant, li nforma lit-Tribunal li giet prezentata applikazzjoni gdida pero' peress li ghadha fi stadju ta' screening, m' huwix f'posizzjoni li jindika n-numru tal-applikazzjoni.

Ghall-Awtorita' dehru [l-Avukat Dott.] Anthony DeGaetano u Mario Scicluna li jaghmlu referenza ghall-Artikolu 70 u ghall-iskeda 6 tal-Att X tal-2010 u ghalhekk fic-cirkostanzi huwa inutile li wiehed jistenna l-ezitu tal-applikazzjoni li ghaliha saret referenza.”

Ikkunsidra ulterjorment:

Il-mertu ta' dan l-appell jirrigwarda proposta sabiex jigi sanat zvilupp residenzjali f' rural conservation area maghrufa bhala 'Ta' Wara l-Buskett', il-barra miz-zona tal-izvilupp.

Iz-zona fejn jinsab is-sit hi kkunsidrata bhala area of high landscape value, area of archaeological importance u level 3 area of ecological value. L-oggezzjoni tal-Awtorita' ghall-izvilupp, tistrieh fuq il-fatt li minhabba l-karatteristici urbanizzanti taghha, il-proposta in ezami hi inter alia nkompatibbli mal-policies BEN 4, AHF 5, SET 8, SET 11, SET 12, RCO 1, RCO 2, RCO 4 u RCO 12 tal-Pjan ta' Struttura. Jigi rilevat ukoll, li l-izvilupp ezistenti hu in kontravvenzjoni tal-policy PLP 20 - Development Outside

Built-Up Areas; il-Policy and Design Guidance - Agriculture, Farm Diversification and Stables; kif ukoll l-Artikolu 14 tal-Avviz Legali 514 tal-2010.

Skond l-Appellant, il-mahzen originali kien akbar minn dak indikat mill-Awtorita' (28 minflok 24 metri kwadri). Iddikjara wkoll li d-DPA Report kien sbaljat: cjoe' originarjament, l-izvilupp kellhu footprint komplessiva ta' 56 metri kwadri, u li bl-estensjonijiet li saru minghajr permess, illum tammonta ghal-84 metri kwadri. Skond l-Awtorita' ma dawn iridu jizjeddu 22 metri kwadri ohra ta' pavimentar (hard landscaping) li mhux qed jigu ssanati.

Gie sottomess ukoll mill-Appellant, li peress il-proposta hi ghal farmhouse, allura m'ghandix titqies bhala zvilupp urbanizzanti. Is-sit ghandu marbut mieghu il-fuq minn elf metru kwadru ta' raba argikolu prim u li ghalhekk il-proposta in ezami hi konsistenti ma' zvilupp rurali; in linja mal-istess policies li jirregolaw zvilupp fil-kampanja u citati mill-Awtorita' fir-raguni ghar-rifjut.

Jigi rilevat pero', li ma gewx ipprezentati dokumenti in sostenn ta' dawn l-aggravji tal-Appellant. Anzi, mir-ritratti li jinsabu fiz-zewg files (PA 4737/01, u PA 5752/07) jidher car li l-izvilupp jixbah aktar countryside residence b' sigar u pjanti ornamental, milli a full-fledged farmhouse kif dikjarat mill-Appellant stess.

Ikun xieraq li hawnhekk issir riferenza ghal zewg ittri: wahda mid-Dipartiment ta' l-Agrikoltura Sezzjoni tar-Raba' u l-lma, fi hdan il-Ministeru tal-Agrikoltura u Sajd; u l-ohra tad-Dipartiment ghall-Harsien tal-Ambjent fi hdan il-Ministeru ghall-Ambjent, ipprezentati rispettivament fil-15 ta' Marzu u fis-17 t' April 2002 (red 16 u red 18 fil-file PA 4737/01), u li jgibu s-segwenti:

"According to our records, applicant is not registered as a farmer."

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“Development in question is residential (with all commodities) and not agricultural. Also, the periphery [sic.] wall is much higher than 4 courses. Illegal construction should be removed and site restored.”

Mir-ritratti mill-ajru, jidher li sal-1994, is-sit kien prattikament mhux mittiefes. Kienet giet intavolata applikazzjoni (PA 1407/97) sabiex jinbnew giebja w pump room kif ukoll xi hitan tas-sejjieh, izda din giet rifjutata peress li l-izvilupp fil-fatt kien diga sar. Imbaghad saret applikazzjoni ohra sabiex tinbena estensjoni mal-mahzen ezistenti sabiex tkun tista' tinzamm ghodda agrikola (PA 2141/98). Din ukoll giet rifjutata w ir-rfjut ikkonfermat kemm mill-Bord tal-Appell dwar l-Ippjanar (PAB 750/98), kif ukoll mill-Qorti tal-Appell. Sussegwentement is-sit gie milqut b' enforcement notice (ECF 82/98) ghal bini bla permess ta' hitan jew recinti, pjattaforma tal-konkos kif ukoll minhabba l-bini ta' kmamar godda w estensjoni ghall-mahzen qadim.

Permezz ta' ittra tal-Awtorita' tas-26 ta' Jannar 2008, mibgħtuta lill-perit difensur tal-Appellant waqt l-ipprocessar tal-applikazzjoni ghas-sanar PA 5752/07, jigi rilevat li l-Appellant kien gie mitlub jissottometti l-informazzjoni segwenti:

“In order to assist us in the processing of this application, you are kindly requested to submit:

- detailed photographic record of all existing building (internally and externally), the reservoir, concrete platform and any hard landscaped areas. This should be cross-referenced to plans to indicate the position from where the photographs were taken.
- details of the rubble walls which are being sought to be sanctioned – the location of the said walls are to be indicated on plans.
- the uses of all built structures on site.
- plans that show all existing (specify their names).

Please also note that you are kindly requested to clarify if the proposal involves the conversion of existing structures to a dwelling. If this is so, kindly amend the proposed description accordingly to reflect the proposed change of use. A justification for the development of a residence is also required to be submitted.”

Sussegwentement, permezz ta' ittra tat-8 t' Awissu 2008 (red 13 fil-file PA 5752/07), l-istess perit difensur talab 'a time extension' li jidher li nghatat; izda tmien xhur wara', l-Awtorita' permezz ta' ittra tal-14 ta' Mejju 2009 (red 17 et seq. fl-istess file) infurmat lill-Appellant illi:

“since you have not re-activated the application, your application has been withdrawn in accordance with the provision of Section 32 (6) proviso.”

Ma jistax jigi njurat il-fatt li din l-applikazzjoni ghas-sanar ta' zvilupp (illegali), hadet il-fuq minn hdax il-sena' sabiex tigi determinata; f' process li fil-fazi tal-appell biss ilhu ghaddej ghall-bellezza ta' tmien snin u nofs. Jirrizulta li fl-istess perjodu, saru biss nota wahda w risposta; cjoe' in-nota promotorja tal-appell per se w ir-risposta tal-Awtorita'.

In oltre, meta jigi kkunsidrat il-fatt li f' dawn l-ahhar seba' snin u nofs, l-Appellant inghata l-opportunita' sabiex jirregolarizza l-izvilupp peremezz ta' applikazzjoni ulterjuri ghas-sanar (wara kollox kien hu stess li talab zmien sabiex jaghmel dan), naqas illi jipprovdi l-informazzjoni rikjesta mill-Awtorita' sabiex tipprocessa tali applikazzjoni. B'konsegwenza, tul aktar minn hdax il-sena', l-Appellant baqa' ostinatament jippersisti b'zvilupp illegali, b' dana li dak li originarjament kien genwinament mahzen agrikolu, naqra naqra illum spicca f' residenza illegali fil-kampanja.

Kif inwera mill-mori tal-appell, l-Appellant kellu bizzejjed zmien sabiex jirregola ruhhu izda anke meta talab u nghata c-cans sabiex jaghmel dan, naqas li jottempera ruhhu mar-rekwiziti tal-Awtorita'. Dan hu agir oggezzjonabbli ferm, sahansitra vessatorju u ghalhekk

ghanda tapplika l-imposizzjoni tas-sanzjoni fit-termini tal-Artikolu 14 tat-tieni skeda tal-Att X ta' l-2010, Kap. 504.

Ghalhekk, in vista tal-konsiderazzjonijiet kollha hawn fuq maghmula, u fuq kollox sabiex ikun konformi mal-policies u l-ligijiet tal-ippjanar vigenti, dan il-Tribunal qed jiddisponi minn dan l-appell billi jichad l-istess u jikkonferma ir-rifjut ghall-PA 4737/01 mahrug mill-Kummissjoni ghall-Kontroll ta' l- Izvilupp, fit-12 t' Awissu 2003.

In oltre, fit-termini tal-Artikolu 14 tat-tieni skeda tal-Att X ta' l-2010, Kap. 504, dan l-istess Tribunal jimponi l-multa ta' elfejn u hames mitt Euro (€ 2,500) li għanda tithallas fi' zmien tletin (30) gurnata mill-lum.

Ikkunsidrat

L-aggravju tal-appellant hu fis-sens illi hu kellu problemi matrimonjali ma' martu u kien kostrett jitlaq mid-dar matrimonjali u mar joqghod fil-kmamar rurali mertu ta' dawn il-proceduri, billi kien l-uniku fond li kellu. Hu adibiha bhala residenza b'mod li bhala skala ta' zvilupp mhuiex ta' xi entita partikolari u ma taghmilx hsara fuq l-ambjent jew l-impatt vizwali fuq iz-zona. It-Tribunal kellu ghalhekk iqis dawn ic-cirkostanzi partikolari. Rigward il-platform zghir tal-konkos f'passagg ezistenti dan ghamlu minhabba hsara li sehhet f'maltemp li kaxkar il-hamrija u l-materjal tal-passagg fi spiera bi hsara għall-ilma li sservi għall-ghelieqi.

Dan l-aggravju lanqas hu wiehed fuq punt ta' ligi izda biss talba biex il-Qorti tirrikonsidra l-fatti tal-kaz. Bhala tali lanqas hu appell ammissibbli skond il-ligi.

Madankollu t-Tribunal qies il-fatti li taw lok għal din l-applikazzjoni u kkunsidra li l-izvilupp jaqa' f'zona barra l-limitu ta' zvilupp, adebita bhala 'area of high lanscape value, area of archeological importance u level 3 area of ecological value'.

It-Tribunal irreleva li dan is-sit kien adibit bhala mahzen agrikolu biex tinzamm ghodda agrikola (PA 2141/98) pero

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irrizulta lit-Tribunal illi l-estensjoni li saret, mhux talli lanqas tirrifletti l-applikazzjoni ghal sanzjonar ta' estensjoni bhala farmhouse izda kienet aktar tixbah 'countryside residence' b'sigar u pjanti ornamental. Irrizulta wkoll illi l-applikant lanqas hu registrat bhala 'farmer' u nonostante li thalla jaghmel applikazzjoni PA 5752/07 biex jissanzjona l-bini, l-istess applikant naqas li jaghti l-provi dokumentarji rikjesti u l-applikazzjoni giet irtirata.

L-appellant ma jattakkax dawn il-kwistjonijiet u anqas jattakka l-policies kwotati kontra l-applikazzjoni cioe BEN 4, AHF5, SET 11, SET 12, RCO 1, RCO 2, RCO 4, RCO 12 tal-Pjan ta' Struttura kif ukoll policy PLP 20 dwar Development Outside Built-up Areas billi jikkwota policies ohra bhala li messhom gew applikati fil-kaz tieghu.

Il-lanzanza tieghu tidher li ma hi bazata fuq ebda principju legali ta' planning li timmerita konsiderazzjoni.

Decide

Ghalhekk il-Qorti taqta' u tiddeciedi billi tichad l-appell ta' Joseph Genovese u tikkonferma d-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-lppjanar tad-29 ta' Marzu 2012. Bl-ispejjez kontra l-appellant.

< Sentenza Finali >

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