



MALTA

QORTI TA' L-APPELL

ONOR. IMHALLEF

MARK CHETCUTI

Seduta tas-27 ta' Novembru, 2014

Appell Civili Numru. 77/2012

Paul Vella

vs

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

Il-Qorti,

Rat ir-rikors tal-appell ta' Paul Vella tat-18 ta' April 2012 mid-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tad-29 ta' Marzu 2012 li biha cahdet l-applikazzjoni PA 2877/04 'to sanction/convert existing rooms into grape pressing area and plant a vineyard in land exceeding 4 tumoli';

Kopja Informali ta' Sentenza

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

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

Rat id-decizjoni tat-Tribunal li tghid hekk:

Ikkunsidra:-

Ir-ragunijiet li ghalihom l-Awtorita irrifjutat l-applikazzjoni PA2877/04, "To sanction/convert existing rooms into grape pressing area and plant a vineyard in land exceeding 4 tumoli", fil-25 ta' Ottubru, 2006, wara reconsideration, kienu s-segwenti:

"1. The proposal is not essential to the needs of agriculture in that the applicant is not a registered full-time arable farmer and the size of the building is excessive. The applicant does not therefore satisfy the criteria set out in paragraph 11.4 of the Structure Plan Explanatory Memorandum and so the proposal runs counter to Structure Plan policies AHF 5 and SET 11 and to the Malta Environment & Planning Authority's Policy and Design Guidance - Farmhouses and Agricultural Buildings.

2. The proposed development would have an adverse impact on an important archaeological site or area and would conflict with Structure Plan policy ARC 3 which provides that such areas or sites should be safeguarded and preserved.

3. 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.

4. The site lies outside the limits for development defined in the Gozo and Comino Local Plan and so it is located in an area which should remain undeveloped and

Kopja Informali ta' Sentenza

open. The proposed development would run counter to the Local Plan and would represent unacceptable urban development in the countryside.

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

6. 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. The proposed building and use can be located within the existing building on site (which is located within the limits to development).

7. The site lies in a Rural Conservation Area. 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.

8. 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.

9. Structure Plan Policy RCO8 sets out that in Rural Conservation Areas, individual cultivators will be required to illustrate to the Authority how any planned agricultural development will not harm the ecological, archaeological, and scenic value of the Area. The proposal creates a negative visual impact on surrounding areas and therefore the proposal conflicts with Structure Plan Policy RCO8.

10. The proposal makes no adequate provision for soft landscaping on the site. It would therefore detract from the visual amenity of the area and would not comply with Structure Plan policy BEN 17 which requires the landscaping of development."

Fl-appell tieghu, l-appellant, permezz tal-Avukat Gianfranco Grech, jaghti is-segwenti raguni ghaliex fl-opinjoni tieghu dan l-appell ghandu jigi milqugh:

Kopja Informali ta' Sentenza

"1. The first ground of refusal was that the proposal is not essential to the needs of agriculture because the applicant is not a full time farmer and the size of the building is excessive. The applicant is at present unemployed, and the approval of the development would permit him to obtain the necessary financing to launch a project which would give him full time employment. Furthermore, the size of the building is barely enough for the machinery and storage needed.

2. The second ground of refusal is relative to the supposed archeological importance of the site, which importance needs to be proved. It is submitted that said importance is being alleged exclusively because the site has not yet been properly investigated, and that a proper archeological investigation will confirm that the site has no archeological importance. The applicant declares himself ready to commission the necessary studies in order to establish this once and for all.

3. Reference is made to para 1, as the development does indeed fall within the category of structures and facilities essential to agriculture and does enhance agricultural interests.

4, 5. The fourth and fifth grounds defines the development as an unacceptable urban development in the countryside and an urban/commercial development outside built-up areas. The applicant submits that the development is of a rural nature, and is ready to take all necessary steps to ensure that the development is modified in order to blend in its surroundings.

6. The sixth ground is that the proposed development can be located within the existing building on site. The applicant submits that said building was approved for residential use, that it is in effect being used residentially, and that the installation therein of the necessary machinery and storage facilities would cause an unacceptable inconvenience.

7. Reference is made to para. 4,5.

8,9,10. Again reference is made to para. 4,5. Furthermore it is stressed that various works and modifications can be undertaken in order to minimize visual impact and to render the buildings unobstrusive to the eye, including rubble cladding, creepers and trees.

Kopja Informali ta' Sentenza

Finally, the applicant submits that with further consultation, the proposal could be varied rather than refused, in order to ensure the interests and purposes of the various policies referred to in the decision.”

Fir-risposta tieghu, David Cassar, ghall-Awtorita' jaghti r-ragunijiet ghaliex fl-opinjoni ta' l-Awtorita dan l-appell ghandu jigi michud. Is-segwenti huma siltiet minn dan ir-rapport li t-Tribunal jhoss ghandhom jigu ssottolineati:

"SITE

The part of the site accommodating the building proposed to be used as a grape pressing area is located outside the limits to development – see site plan red 1A. The part of the site within development zone is occupied by an existing dwelling, and a recent permission allowed further development adjacent to it (see below). Photos on reds 1E and 1F show parts of the building and its surroundings.

Permissions PB3169/85 and PB2003/86 allowed the construction of dwellings and garages on either side of the existing building located within development zone. These permissions, however, were not utilized and no construction took place.

Application PB3626/89 also refers to part of the site – file attached. The application was requesting to sanction the existing building. It was refused on 2 October 1989 and 22 April 1991.

Application PA7167/97 – see file attached – sought to regularize the existing rooms to be used as domestic stores and aviary. These rooms are the same rooms subject of this application (PA2877/04). Application PA7167/97 was refused by DCC, the refusal was confirmed by the Planning Appeals Board, and also by the Court of Appeal.

Permission PA5483/03 – see file attached – was issued on 15th April 2004 for the construction of basement garages and overlying apartments over the part of the site, located within development zone, West of the existing building.

Application PA3341/04 – to “make good for damaged rubble walls, re-erect walls if demolished or absent or otherwise, to a maximum height of three courses along boundary of proposed Mgarr ix-Xini Regional Park and put marked delineating

Kopja Informali ta' Sentenza

boundary of same” – is also plotted on the part of the site located ODZ. The application was submitted by the Local Council.

The site is currently subject to legal action - PAPB Police case [seeking demolition of illegal building] – see minute 29. The case is being kept pending the processing of the current application – see red 30 in file PA07167/97 (attached).

"DIRECTORATE'S COMMENTS ON GROUNDS FOR APPEAL

-- Preliminary Statement

The Reconsideration decision notice, to which this appeal refers is dated 10 September 2007, while the current appeal has been submitted on 23 September 2008, more than a year later. The following comments are being provided without prejudice to the validity, or otherwise, of the request for appeal.

-- Preamble

The proposed development is not acceptable in principle since it constitutes urban development Outside Development Zone; and in view of its impact on the surrounding landscape setting and archaeological scheduling.

-- Urban Development ODZ

The proposal seeks to sanction the existing building for use as a grape pressing area and store. The grape pressing use is an industrial process which does not need to be located in the countryside and may be adequately accommodated within existing and planned industrial areas. The sanctioning of the building for such use conflicts with Gozo and Comino Local Plan Policy GZ-LMDZ-1 and Structure Plan Policies SET11, SET12 and RCO2.

-- Policies regulating Wineries

The Policy and Design Guidance – Agriculture, Farm Diversification and Stables, 2007 provides for the production of wine in Policies 2.8A and 2.8B. The former regulates the conversion of existing abandoned or under-utilised agricultural buildings for processing and production of wine. This policy, therefore, does not apply to this case in that the existing building is not a legitimate agricultural building, but an illegal building altogether. Indeed the site is currently subject to legal action in relation to a PAPB Police case.

Policy 2.8B of the same policy guidance provides for the construction of new buildings for processing and production of 'quality wine psr'. Again, no proof has been submitted to demonstrate that the grape pressing intended to be carried out on site is intended for the production of psr quality wine, and therefore this policy may not be used to allow the proposed development. Notwithstanding, the policy sets out a number of qualitative and quantitative criteria which the proposal does not satisfy. Indeed, the applicant/appellant is not registered as a vine grower since 1992, he does not own a vineyard of at least 2 hectares (but only approximately 0.2 hectares) within 500metres from the proposed building; the building intended for grape pressing is not located within a vineyard measuring at least 1 hectare (but the entire site area, inclusive of residential development within development zone measures only approximately half a hectare); and the proposed winery is located within a designated Area of Archaeological Value. The proposal therefore conflicts with the provisions of the Policy and Design Guidance – Agriculture, Farm Diversification and Stables, 2007.

-- Archaeological Scheduling

The site lies within a proposed Buffer Zone, in view of megaliths and Dolmen, which is afforded a degree of protection B. In accordance with Structure Plan Policy ARC 2, for Grade B sites, adequate measures should be taken to preclude any damage from immediate development. Since the development has been constructed illegally, it is not possible to assess whether or not archaeological remains have been destroyed during construction. Nevertheless, the concern of the Integrated Heritage Management Team (within the Planning Directorate) is that the proposed accesses to and paved areas around the illegal development, which is located in the middle of the fields, would result in further disturbance of an archaeologically sensitive area.

Given that applicant is not registered as a full-time farmer and the existing structures are illegal, there is no justification to allow further disturbance of an archaeological site. The archaeological importance of the area outweighs the fact that applicant is registered as a part-time farmer. In these terms, the proposed development would have an adverse impact on an important archaeological area and would conflict with Structure Plan Policy ARC3 which provides that such sites should be safeguarded and preserved. Since this is a buffer zone for a Grade B monument, then no development should be permitted, in line with Policy 1.3E of Policy and Design Guidance – Agriculture, Farm Diversification and Stables, 2007.

-- Visual Impact

Kopja Informali ta' Sentenza

Policy 1.3A of Policy & Design Guidance – Agriculture, Farm Diversification and Stables, 2007 provides for the protection of the rural character and landscape. The building proposed to be sanctioned is the cause of negative visual impact on surrounding areas, and thus should not be allowed in terms of this policy and Structure Plan Policy RCO4. Indeed, the drawings submitted with the application cannot be changed at the appeal stage, and a separate application should be submitted if the applicant wishes to propose an alternative design. The proposal, additionally, does not make adequate provision for landscaping to screen the proposed development. Therefore, the proposal is also in conflict with Structure Plan Policy BEN17.

-- Boundary Walls

The proposed plan also indicates a boundary wall along all the perimeter of the site. Whilst there is no indication on the height of the boundary wall, the legend on plan red 1B clearly proposes "all external walls are to be in exposed masonry". This is clearly in conflict with Policy 9.13 of DC2000 and policies regulating visual impact in rural areas

- o SP Policy RCO 4.

-- Illegal Development

A site inspection was carried out by the DCC prior to a decision of the application – see minutes 35 and 37. The Committee noted that there are no vines in the vicinity and that the site is used for dumping of waste and hunting. The DCC noted also that the proposed development is highly objectionable. The proposal does not seek to sanction the dumping of waste (which would not be sanctionable) and thus the provisions of Circular PA2/96 apply.

-- Conclusion

Several attempts have been made by applicant to sanction the existing building for different uses, such as agricultural stores, and residential stores and the Development Control Commission and the Planning Appeals Board always found the sanctioning unacceptable. There are no policies or changes in applicant's status which affect the unacceptability of the proposal."

Ikkunsidra ulterjorment:

Wara li kkunsidra il-premess u minn ezami tal-pjanti, ritratti u dokumenti li hemm fil-files PAB 195/08 u PA 2877/04, it-Tribunal jikkumenta kif gej:

Kopja Informali ta' Sentenza

Il-mertu ta' dan l-Appell jirrigwarda talba (reconsideration) ghas-sanzjonar u ristrutturazzjoni ta' kmamar esistenti f' grape pressing area u t-thawwil ta' vineyard f'ghalqa ta' izjed minn 4 tmiem. Il-proposta tinkludi ukoll il-formazzjoni ta' access road li taghti ghal binja. Dik il-parti tas-sit fejn qed jigi propost il-bini li ser jintuza ghall-ghasir tal-gheneb qieghed ODZ. F'dik il-parti tas-sit li qieghda gewwa iz-zona tal-izvilupp hemm bini ezistenti li mhux parti minn l-applikazzjoni. L-applikazzjoni PA7167/97 ittentat tisanzjoni il-kmamar mertu ta' dan l-appell. Din l-applikazzjoni kienet giet rifjutata mid-DCC, mill-Bord tal-Appell u mill-Qorti tal-Appell. Is-sit huwa suggett ghal PAPB police case li qed jinzamm pendent sakemm ma' jigi deciz dan l-appell.

Din l-applikazzjoni giet rifjutata ghas-segweni ragunijiet:

- Il-proposta m'hix essenzjali ghall-bzonnijiet tal-agrikoltura u m'hix f'wahda mill-kategoriji msemija f' para 7.6 ta' l-iStructure Plan u ghalhekk tikser il-policies AHF 5, RCO 2, RCO 4, SET 12 u SET 11 ta' l-iStructure Plan;
- Il-proposta tista taffettwa hazin sit arkeologiku u ghalhekk tikser il-policies ARC 3 ta' l-iStructure Plan;
- L-proposta tinsab ODZ u ghalhekk l-izvilupp f'dan is-sit jikser il-Gozo and Comino Local Plan;
- Il-proposta tista ssir fil-bini li jezisti fuq is-sit li huwa gewwa z-zona tal-izvilupp; u
- Il-proposta ma' tinkludix soft landscaping.

L-appellant jikkontendi li

- L-applikant bhallissa jinsab bla xoghol u l-intenzjoni tieghu hi li jaghmel dan il-progett biex ikollu xoghol full-time;
- L-importanza arkeologika tas-sit ghadu mhux ippruvat u l-appellant lest jiffinanzja l-istudji necessarji;
- L-appellant isostni li l-progett huwa ta' natura rurali u lest li jaghmel dak kollu necessarju biex jintegra l-progett ahjar fl-ambjent inkluz it-thawwil ta' sigar u landscaping iehor; u
- L-izvilupp ma jistax jsir fil-bini li diga jezisti peress li dan qed jintuza bhala residenza u dan skond il-permess li ghandu dan l-istess bini.

Fin-nota taghha b' risposta ghall-appell, l-Awtorita terga itenni l-argumenti li saru fir-reasons for refusal u telabora billi zzid inter alia s-segweni:

- Is-sanzjonar ta' dan l-izvilupp imur kontra l-Policy GZ-LMDZ-1 tal-Gozo and Comino Local Plan u l-Policies SET 11, SET 12 u RCO 2 tal-iStructure Plan;

Kopja Informali ta' Sentenza

- Il-Policies 2.8A u 2.8B tal-Policy and Design Guidance – Agriculture, Farm Diversification and Stables, 2007 li jittrattaw il-produzzjoni tal-inbid ma japplikawx ghal dan il-kas peress li dan l-izvilupp huwa bla permess u hemm proceduri legali kontrih;
- L-appellant ma' jissodisfa ebda wahda mill-rekwiziti l-ohra tal-Policy 2.8B tal-Policy and Design Guidance – Agriculture, Farm Diversification and Stables, 2007;
- Is-sit huwa gewwa Buffer Zone arkeologika u huwa kklassifikat bhala Grade B site;
- L-izvilupp imur kontra l-Policy 1.3A tal-Policy and Design Guidance – Agriculture, Farm Diversification and Stables, 2007 li tittratta l-protezzjoni tal-karatteristici rurali ta' dawn iz-zoni; u
- Meta sar access mid-DCC fuq is-sit in ezami gie nnotat li mhemmx dwieli imhawwlin fis-sit anzi gie nnotat li s-sit huwa uzat ghad-dumping ta' l-iskart u ghall-kacca. Id-DCC nnota wkoll li l-izvilupp ezistenti u bla permess huwa 'highly objectionable'.

Jidher car mill-premess li dan hu attentat biex jigi sanzjonat zvilupp abuziv ghall-ahhar mibni bla permess fil-kampanja li johloq urbanizzazzjoni li tkerrah il-kampanja bl-izjed mod evidenti u ovvju. L-appellant ma' gab ebda raguni konvincenti f'terminu ta' ppjanar biex jiggustifika is-sanzjonar ta' dan l-izvilupp abuziv. It-Tribunal, ghalhekk, jaqbel ma' l-Awtorita' li dan l-izvilupp jikser numru konsiderevoli ta' policies ta' l-iStructure Plan, tal-Gozo and Comino Local Plan u tal-Policy and Design Guidelines on Agriculture, Farm Diversification and Stables. Anzi f'dan il-kas wiehed jasal biex jikkonkludi li dan l-izvilupp jista jservi ta' ezempju tajjed ta' dak li qatt m'ghandu jithalla jsir fil-kampanja.

In konkluzjoni, kif jidher mill-fatti li hargu fil-kors tas-smiegh ta' dan l-appell, billi jirrizulta li l-proposta in ezami numru ta' policies tal-Pjan Strutturali (RCO 2, RCO 8, SET11, SET12, AHF 5, ARC 3) u tal-Gozo and Comino Local Plan (GZ-LMDZ-1), kif ukoll il- Policy and Design Guidelines on Agriculture, Farm Diversification and Stables (2.8A, 2.8B u 1.3A) dan l-appell ma jirrizultax fondat u ghallhekk ma jimmeritax kunsiderazzjoni favorevoli.

It-Tribunal, ghalhekk, qieghed jichad dan l-appell u jikkonferma ir-rifjut mahrug mill-Awtorita' tal-applikazzjoni PA2877/04, "To sanction/convert existing rooms into grape pressing area and plant a vineyard in land exceeding 4 tumoli", fil-25 ta' Ottubru, 2006, wara reconsideration.

Ikkunsidrat

Kopja Informali ta' Sentenza

L-aggravji tal-appellant huma s-segwenti:

1. It-Tribunal ghamel zball ta' ligi peress illi l-izvilupp kien skond il-policy 2.4 Agricultural Buildings for storage for arable farming u dan peress illi l-applikant jikkupa art ta' aktar minn hamest itmiem u japplika ghalih id-dispost tal-kobor ta bini ghal 'storage purposes';
2. Id-decizjoni tat-Tribunal mhix motivata sodisfacentement speċjalment rigward il-buffer zone u dan peress illi l-kamra giet mibnija hafna qabel l-iskedar taz-zona u l-mertu tal-iskedar hu biss gebla li qeghda l-bogħod mill-kamra u ghalhekk ma ser ikun hemm ebda impatt fuqha, u dan b'rispett lejn policy ARC3;
3. Id-decizjoni hi diskriminatorja ghax f'it metri bogħod mill-kamra hemm fabbrika tal-bricks li giet estiza tul is-snin bil-permessi tal-MEPA. H emm ukoll irziezet kbar li qed jtkabbru wkoll bil-permessi u b'finanzjament Ewropew. L-istess trattament ghandu jinghata lil applikant li hu registered farmer. In oltre ser jigi approvat permess lil-Kunsill Lokali fil-buffer zone;
4. L-applikant jahdem diversi għelieqi ohra ta' hutu bil-process organiku u s-sanzjoni tal-post odjern hu l-aktar idoneju ghal pozizzjoni accessibbli tieghu biex il-prodott mill-għelieqi jingieb f'post centralizzat. Il-kamra ilha mibnija aktar minn 20 sena u dahlet mal-ambjent. L-applikant obligata ruhu li jnehhi l-kamra ta' fuq tal-binja li donnu kienet l-akbar ostakolu għall-istess sanzjonar. Anki mizuri li jimmeljoraw l-ambjent ittiehdu mill-applikant biex isebbah il-pajesagg, u ghalhekk ma jmurx kontra policy RCO 4, kif inhu l-kaz bil-fabbrika tal-bricks u razzett tal-baqar fuq kull naha tal-wied. In fatti l-izvilupp hu konformi mal-policy RCO 2 li jirrigwardaw facilitajiet essenzjali għall-agrikoltura u konformi wkoll mal-policy RCO 8 u policy BEN 5.

L-ewwel aggravju

L-appellant isostni illi t-Tribunal inkorra zball ta' ligi ghax messu applika ghal kaz l-policy 2.4 Agricultural Buildings for Storage for Arable Farming. Dan l-aggravju ma jistax jigi gustifikat għaliex it-Tribunal ikkunsidra diversi policies ohra rizultanti mill-fatti tal-kaz u ddecieda liema policies kellhom ikollhom prevalenza u jigu applikat. Dan ma jikkostitwix punt ta' ligi li fuqu jista' jsir appell izda apprezzament mit-Tribunal ta' diversi policies u liema huma l-aktar idoneji trattati l-fattispecie tal-kaz. Tali diskrezzjoni, cioe dik li t-Tribunal jikkunsidra, jevalwa

Kopja Informali ta' Sentenza

u jikkonkludi liema policies huma l-aktar addatati hi fdata esklussivament f'idejn it-Tribunal li fuq kwistjonijiet ta' planning hu l-aktar arbitru idoneju biex jiddeciedi tenut kont li fl-istess Tribunal hemm esperti teknici li jghinu lit-Tribunal jasal ghad-decizjoni. Kien ikun divers li kieku t-Tribunal applika policy li mhix relatata mal-kaz, fejn allura t-Tribunal ikun ikkommetta zball ta' ligi. Pero l-appellant mhux qed jargumenta hekk. Invece qed jitlob lil Qorti sabiex terga tevalwa l-policies kollha li saret referenza ghalihom fil-kors tal-appell quddiem it-Tribunal u tasal hi ghal konkluzjoni dwar liema policy kienet l-aktar idoneja. Dan mhux il-kompitu tal-Qorti tal-Appell u l-fatt li l-appellant ma jaqbilx li l-policies imsemmija mit-Tribunal huma dawk li l-aktar jaghtu sens lil applikazzjoni tal-appellant, ma jfissirx li dan hu xi punt ta' dritt appellabbi.

Ghalhekk l-aggravju qed jigi michud.

It-tieni aggravju

Dan l-aggravju wkoll ma jisthoqqlux jigi konfermat. It-Tribunal evalwa sew il-fatti tal-kaz u dan meta elenka b'mod succint il-punti kollha li tqajmu mill-partijiet u wasal ghal konkluzzjoni illi l-izvilupp propost ma kienx accettabbi ghax johloq urbanizzazzjoni li tkerrah il-kampanja b'mod evidenti u ovvju. Zied li l-appellant ma ggustifikax is-sanzjonar tal-izvilupp abusiv tenut kont tal-policies elenkati mill-istess Tribunal senjatament dak li jirrigwarda l-izvilupp specifiku propost cioe 'grape pressing area u vineyard' li huma l-Policy and Design Guidance on Agriculture, Farm Diversification and Stables 2.8A, 2.8B u 1.3A.

Ghalhekk dan l-aggravju mhux sostnut.

It-tielet aggravju

Dan l-aggravju lanqas ser jigi kunsidrat mill-Qorti peress illi qatt ma ifforma parti mill-aggravju tal-appell tal-appellant. It-Tribunal hu marbut jiddeciedi fuq l-aggravji mressqa. Darba li ma sar ebda aggravju kif qed jigi sottomess issa quddiem din il-Qorti, mhux lecit

Kopja Informali ta' Sentenza

ghall-appellant li jqajjem tali aggravju u wisq inqas ghandha tikkonsidrah din il-Qorti billi tkun qed tibdel il-parametri tal-vertenza liema parametri huma formulati mill-partijiet bil-formalitajiet procedurali.

Ir-raba aggravju

Dan l-aggravju ma hu xejn hlief tentattiv ta' apprezzament mill-gdid tal-fatti ghal kaz in ezami, oltre sottomissionijiet dwar binjiet ohra fil-vicinanzi li ma saret ebda aggravju dwarhom fir-rikors tal-appell quddiem it-Tribunal. Il-Qorti hi prekluzza tissindaka mill-gdid il-fatti u taghti l-apprezzament soggettiv taghha kif qed jippretendi l-appellant. Din hi mansjoni tat-Tribunal li ghamilha u ghalkemm wiehed jista' jaqbel jew ma jaqbilx, l-apprezzament u konkluzjoni dwar l-istess fatti huma poteri mhux sindikabbli sakemm ma jkunx gie kommess zball fuq fatti li kien determinanti ghad-decizjoni, li mhux il-kaz.

Ghalhekk dan l-aggravju qed jigi michud.

Decide

Ghalhekk il-Qorti taqta' u tiddeciedi billi tichad l-appell ta' Paul Vella u tikkonferma d-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tad-29 ta' Marzu 2012. Bi-ispejjez kontra l-appellant.

< Sentenza Finali >

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