



MALTA

QORTI TA' L-APPELL

ONOR. IMHALLEF

MARK CHETCUTI

Seduta tal-11 ta' Frar, 2015

Appell Civili Numru. 45/2014

Dorianne Vella u Nicholas Formosa

ghal kull interess li jista jkollu

vs

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

Il-Qorti,

Rat ir-rikors tal-appellanti tas-7 ta' Awwissu 2014 mid-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tal-24 ta' Lulju 2014 kontra r-rifjut ta' PA 2802/10 'to sanction construction of reservoir and minor amendments to PA 3670/03';

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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:

B'applikazzjoni pprezentata fit-18 ta' Gunju 2010, Full Development Permission PA 2802/10, l-appellanti fil-garage Triq Patri Guze' Delia, Mosta talbet:

“To sanction construction of reservoir and minor amendment to PA 3670/03.”

L-applikazzjoni giet michuda b'rifjut tas-17 ta' Awwissu 2011 ghar-ragunijiet segwenti:

“1. The proposal cannot be considered further unless the following illegal development is first sanctioned or removed and this in terms of regulation 14 of Legal Notice 514 of 2010. The illegal development consists of two structures built up of franka stone outlined in ECF258/10 to which sanctioning is not being requested. Enforcement Officer also indicated another structure at first floor and a new opening to garage which are not indicated on plans.

2. Proposal runs counter to paragraphs 1, 2 and 3 of Policy 2.6A (Reservoirs and Pump Chambers) of the Policy and Design Guidance on Agriculture, Farm Diversification and Stables in view that applicant is not a registered farmer and is therefore not essential to agriculture.”

Fl-appell tieghu, l-perit Robert Grech ghall-appellanti ssottometta s-segwenti:

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"I refer to the refusal of above mentioned application.

The illegal development mentioned in refusal, as in ECF 258/10 consist of 2 small structures at the back of the property, which were built together with the adjacent garage way back in 1985. The adjacent garage additional height was sanctioned in PA 3670/03, confirming the existence of the necessary previous permit PA 4220/85. We would also like to point out that, at the time of building this garage way back in 1985 it was not necessary to apply for such diminutive rural rooms and the heightening of the boundary walls, and thus this work was carried out while constructing the adjacent garage. Other structures apart those from those in ECF 258/10, mentioned by enforcement officer have been removed.

With reference to above mentioned proposal, we would like to mention the merits of the refusal of the above mentioned on grounds that illegal development exists on site, vis-a-vis the approval of the following similar MEPA applications, which all lie in an ODZ area and where the original commitment dating back pre-1992 and adjacent commitments, were not only sanctioned by MEPA, but it went further to regularise the development by including this development in the NWLP Local Plan (vide Policy MAP 45A) as a mixed use area.

Commercial garages in PA 2606/03 in Attard,

PA 1608/99 & PA 6505/02110 Zabbar.

Moreover extensions in areas covered with applications PA 1550104, PA 5146/99 & PA 6438/96 which included the sanctioning of extensions for commercial garages in ODZ areas have been subsequently included in the Local Plan, as a Mixed use commercial areas, in a way as to be able to sanction all works.

Hence the rejection of the application of applicant is thus being considered discriminatory in the face of the above-mentioned granted permits. Local courts have in varied instances reiterated that decision-bodies, including therefore MEPA and its DCC boards, are legally bound to take full regard of commitment established by other permits: in fact the Court in Formosa Gauci noe vs MEPA (4/2008APP) justified the Appeals Board for overturning a decision which was based on site commitment:

"Din il-Qorti thoss li jidher car li bhala fatt li hemm commitment fl-istess area ta' diversi zviluppi, koperti bil-permess, ukoll bhal jew simili, u anke ta' entita akbar

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minn dak propost mill-istess appellant, u allura a bazi tal-istess il-Bord tal-Appell harg l-istess permess ta' zvilupp a bazi ta' commitment."

This has further been confirmed in the case Dr Graham Busuttil vs MEPA highlighted that decision-bodies cannot ignore any case precedent quoted by architects in their defence, carrying similar planning objective and principles. Indeed the instances of similar applications was raised by appellant during the discussions before the DCC but were nonetheless ignored or rejected.

Other instances of this principle, by now established by the Courts and the Planning Appeals Board, are *Salvu Mallia vs Kumissjoni ghall-Kontroll tal-Izvilupp* (PAB 221/97); *Joseph Debono vs Kumissjoni ghall-Kontroll tal-Izvilupp* (PAB 111/98SMS); *Dione Bartolo vs Kumissjoni ghall-Kontroll tal-Izvilupp* (PAB 633/98) that applied the rule of "cerimus paribus".

Finally with regards to Policy 2.6A, paragraphs 1,2,3, we would like to point out that since the property which was under a preliminary agreement with the applicant Ms Dorianne Vella, which failed due the non issuance of this permit, this property has been transferred back to the original owner, Mr Nicholas Formosa ID 438850M. Considering the fact that the new applicant Mr Nicholas Formosa is a registered part-time farmer tilling over 6 tumoli of land, the Dept of agriculture in PA 2802/10 Doc.19 finds no objection, the MRA in Doc.20 neither finds an objection, and structure is not located within a scheduled, listed, designated or protected, Reason 2 for this refusal has thus been resolved. Change of applicant form is being submitted to MEPA.

Considering the above, together with the fact that other similar proposals are currently viewed as unobjectionable, and our proposal is fully in line with Policy 2.6A of the Policy and Design Guidance Agriculture, Farm Diversification and Stables, we consider that our proposal is upheld."

Fir-rapport ipprezentat fit-3 ta' Novembru 2011, l-Awtorita' ssollewat eccezzjoni preliminari u ddikkjarat s-segwent:

"The Authority has noted all the arguments as presented in the last submissions and adds a few notes which explains further the chronology of submissions and assessment which led to the final refusal at reconsideration stage.

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The initial application form Red 1 in file and as officially signed by applicant that All the information is true and real declared that the request is to

“To sanction construction of additional agricultural stores, hay store, and a stable and (+ 2 garages added with pen).”

Hence, at the time of the submission as on 7th April 2006, the existing and alleged old rooms were only used for stores. No mention or declaration that a dwelling (ie farmhouse) was on site. ALL the submitted plans had only shown uses related to stores, 2 garages and a stable.

The Directorate ONLY assessed these structures and uses since the Authority is bound to rely and believe the application as submitted and signed by the architect and applicant.

Subsequently, a refusal notice was issued on 24th June 2010 (Red 50 in file)

It is to be stated that no reason re Sanita was issued since none of the rooms was declared as being used for habitation.

A request for reconsideration was submitted and now, the use of some rooms were shown as Bedrooms, Sitting, Dining and Sitting as per plan Red 51B. This was submitted in 3rd August 2010

A fresh assessment was made and now, in view that the same rooms (ie since this application is to sanction, the structure itself does not include its demolition and reconstruction) are now declared that now are being used for habitation file was forwarded to SEO to assess the 'new' uses as declared in latest plans. The SEO noted that the sanctioning is objectionable due to height of room is less than the minimum 2.75m.

The DPARR was sent to architect on 11th March 2011 with covering letter (Black 58) reminding that according to the issued LN 514/2010 written submission could be accepted at this stage but fresh plans are not permissible. However, applicant replied to the DPARR through letter dated 18th March which also included a request for a change in the proposal which should read:

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To sanction part demolition, alterations and construction of parts of pre 1967 residential farmhouse including construction of stable.

Case was forwarded to EPC for final decision and was refused 5-0 on 12.04.11 (Black 60 in file)

In the above circumstances, that Authority reiterates that the refusal decision was fully justified from a planning point of view and all the reasons for refusal are also fully justified.

In this regard, the Authority reiterates that in line with its previous reports, this request for appeal is not justified by the relevant planning polices and states that the EPC's decision was warranted and hence respectfully requests the Tribunal to dismiss this request for appeal.

B'nota tal-25 ta' Novembru 2011, gie anness Dokument mill-ETC dwar id-dettalji ta' xoghol ta' Nicholas Formosa.

L-Awtorita', ikkummentat dwar dan fit-Tieni Statement kif gej:

"Following the Preliminary plea dated 25th October 2011, no new arguments were presented by the appellant to contest and counteract the predominant issue of illegalities on site mentioned in the first report. It is thus apparent that this request for appeal is not justified by the relevant planning polices and that the Board's decision was warranted. In this regard, the Malta Environment & Planning Authority respectfully requests the Tribunal to reach a decision based on the preliminary plea.

This submission is limited to a copy of an ETC employment details of Mr. Nicholas Formosa. However, it is to be reiterated that the application form of this file under appeal was submitted on behalf of Ms. Dorianne Vella and even the refusal notice under appeal dated 11th August 2011 was also issued on Ms. Dorianne Vella. This is important since Policy 2.6 of the PDG – Agriculture, Farm Diversification and Stables, December 2007 clearly states that "Applicant' has to be registered with the Agriculture Department development. In this case, any reference to Mr. Nicholas Formosa is thus not relevant and if now, architect is somehow stating that this appeal is to be considered on merits of Nicholas Formosa, such an assessment can

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only be done through a new application and not as submission in an appeal process.

Furthermore, in addition to the arguments above and to the Authority's first statement, the Authority is also attaching the DPA report as prepared by the Directorate and which led to the EPC's refusal decision. This is so as the Tribunal would be in full knowledge of all issues relating to the refusal as issued.

The Malta Environment and Planning Authority reserves the right to present further written and verbal submissions on the merits, during the course of the appeal, once this preliminary issue is resolved.”

B'nota pprezentata fil-11 ta' Ottubru 2012, l-Avukat Dottor Chris Cilia ghall-appellanti ssottometta s-segwenti:

“1. Illi huwa ta' importanza vitali li jingieb a konjizzjoni ta' dan l-Onorabli Tribunal illi effettivament dak kollu li hem mibni fuq is-sit mertu ta' dan l-appell kien gie mibni bil-permessi validi tal-bini.

2. Illi di fatti l-parti l-kbira ta' dak li gie zviluppat fuq is-sit (salv ghall-giebjja) kien inbena bil-permess mahrug mill-PAPB bejn il-21 ta' Ottubru 1986 meta kien inhareg tali permess u t-30 ta' Settembru 1987 meta tali permess kien gie rtirat.

3. Illi ssir referenza wkoll ghal permess li jgib in-numru PAPB 708/92/4420/85.

4. Illi dan kollu huwa evidenzjat wkoll mill-aerial photos.

5. Illi din id-dokumentazzjoni kollha qed tigi hawn annessa ma' din in-nota.

6. Illi ma sar ebda zvilupp gdid wara s-sena 1987 ghajr ghal dawk l-affarijiet ta' natura minima illi sart it-talba biex jigu sanzjonati u li ghalihom jirreferu dawn il-proceduri.

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7. Illi jigi rilevat illi inizjalment kien hareg permess ghal zvilupp (kopja annessa) liema permess gie irtirat sena wara (kopja annessa) meta l-izvilupp kien diga twettaq u sussegwentement kien rega' nhareg permess (kopja anness) ghal dak li kien diga gie zviluppat u cjoe' zewg garaxxijiet fuq iz-zewg partijiet tas-sit, liema garaxxijiet ghadhom hem sal-lum u dank if evindenzjat mill-aerial photos li jigu hawn annessi.

8. Illi fil-fatt l-applikazzjoni li ggib in-numru PA 2802/10 (issir hawn riferenza ghal pjanta 17b fil-file tal-MEPA) tirreferi unikament ghas-sanzjonar tal-bini ta' giebja (reservoir), ftuh ta' bieb ghas-sit adjacenti u xi planters – kollox kif muri fuq pjanta numru 17b.

9. Illi kull zvilupp iehor ezistenti fuq is-sit huwa kopert u sar bil-permessi validi mahruga mill-awtoritajiet kompetenti ta' dak iz-zmien meta sar l-izvilupp, u dan kollu kif imfisser izjed 'il fuq u kif jirrizulta ampjament mid-dokumentazzjoni hawn annessa.

10. Illi ghalhekk l-eccezzjoni preliminari mqajma mill-Awtorita' rigwardanti l-izvilupp illegali fuq is-sit tirrizulta illi hija kompletament infondata u ghalhekk ghandha tigi michuda.

11. Illi konsegwentement dan it-Tribunal ghandu jisma' u jiddeciedi dan l-appell fuq il-meriti tieghu.

12. Illi konsegwentement il-provvedimenti ta' Regulation 14 tal-Avviz Legali 514 tas-sena 2012 m'humiex applikabbli ghall-appell odjern (kuntrarju ghal dak li qed tikkontendi l-Awtorita')."

L-Awtorita' rrispondiet b'statement ipprezentat fl-1 ta' Novembru 2012, u kkummentat kif gej:

"The Authority has noted all the submitted arguments as presented in the last submissions, but disagrees with these statements on various accounts as will be explained below.

1.1 Arguments against Comments made by Authority

The appellant contended that the site was developed in accordance with permit PAPB 708/92/4420/85. This permit was initially revoked, however the existing development of two garages was by then already built and a new permit was granted a year later. This also corroborated by the aerial photo. The appellant added that this application (PA 2802/10) refers only to the sanctioning of the reservoir and for the opening of a door adjacent to site plus some planters and thus every existing development on site has a valid permit or is being regularised in this application. Therefore the Authority's arguments based on illegal development are not valid.

The Authority, on the other hand, points out that the site history reveals that a permit was issued by way of PB 4420/85 for the erection of 52 dwellings. This was later withdrawn (on the 30/9/87) as per minute 14 and another permit issued on the same file on 19 February 1992 to erect two garages for private cars. This permit covers the garage subject of this appeal and another garage about 25m further up along this road. Permit PA 3670/03 was issued (on 11 March 2004) only for the sanctioning of the additional height of the garage.

The Authority disagrees with appellant's argument stating that every existing development on site has a valid permit since on site there are illegalities which were identified by the Enforcement Unit. In fact ECF258/10 was issued for the removal of soil, excavations of a reservoir, large concrete platform, and two large brick potting plants, and opening to adjacent garage. During the processing of the application the Planning Directorate also consulted the Enforcement Directorate, and concluded that the current planning application is not seeking the sanctioning of all illegalities present on site, particularly a recent structure at first floor level and a new opening to garage which is not indicated on plans (refer to minute 16 and photos at doc 16 (already shown in initial appeal report)). The Enforcement Directorate also noted that no planning permit has been traced for the two structures at the back of the site indicated as existing pre-1985 on drawings 17B and their sanctioning is not being requested.

1.2 Final Comments

The appellant is not registered as a farmer and thus runs counter to Policy 2.6A (Reservoirs and Pump Chambers) of the PDG- Agriculture, Farm Diversification and Stables (Dec. 2007) which clearly specify that Applicant has to be registered with the Agriculture Department. Furthermore the proposed construction of reservoir cannot be accepted in view that applicant is not registered as a farmer. Proposal also includes minor amendments to PA3670/03 which are being objected in view of

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existing further illegalities on site which are not being proposed for sanctioning. Thus contrary with appellant's arguments reasons for refusal are valid.

In this regard, the Authority reiterates that in line with its previous reports, this request for appeal is not justified by the relevant planning policies and states that the EPC's decision was warranted and hence respectfully requests the Tribunal to dismiss this request for appeal."

Ikkunsidra ulterjorment:

L-Appellanti qed tipproponi 'sanctioning' ta' reservoir u xi modifiki zghar ghall-permess PA 3670/03.

Mill-pjanti sottomessi jirrizulta li qed jigi propost li parti mill-hajt divizorju tigi demolita' biex jigu konnessi z-zewg siti adjacenti.

Is-sit jinsab jikkonfina z-zona tal-izvilupp, pero' barra z-zona tal-izvilupp (ODZ) f'Ta' Zokrija, l-Mosta; din d-disinjazzjoni giet ikkonfermata bic-Central Malta Local Plan (CMLP) f'Lulju 2006.

L-Awtorita' ghamlet referenza ghas-segweni Policies mill-Pjan ta' Struttura:

Policy SET 11; para 7.6; SET 12; RCO 2; RCO 3, RCO 4, BEN 5 u r-Regolament 14 tal-Avviz Legali 514 ta' l-2010.

L-ewwel motivazzjoni tar-rifjut hi li hemm illegalitajiet fuq is-sit, li ghandhom jew jitnehhew, jew issir talba biex jigu sanzjonati.

L-Awtorita' dwar dan irrilevat li fuq is-sit harget Enforcement Notice ECF 258/10 billi saru diversi xogholijiet bla permess, u dawn jikkonsistu fi skavar ta' hamrija, thaffir fil-blat biex giet iffurmata giebjja taht l-art; twittija tal-art bil-konkosk, nholoq access gdid ghas-sit adjacenti, saru hitan bil-bricks tlett filati gholja ghall-ilqugh tal-hamrija, u kostruzzjoni ta' hitan tal-franka f'zona li hi ODZ. Inltre sar access fis-16 ta' Frar 2011 u gie notat li saret struttura gdida fl-ewwel sular, u sar access gdid ghall-izvilupp fl-ewwel sular, u access iehor ghall-garage, li m'humieq indikati fil-pjanti.

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Il-konsulent legali tal-appellant jikkontendi li l-izvilupp li jezisti fuq is-sit hu kollu kopert bil-permess; bl-eskluzjoni tal-giebjja, li taghha qed jintalab sanctioning b'din l-applikazzjoni.

L-Awtorita' pero' fl-ahhar rapport taghha ghalkemm ikkonfermat li z-zewg garages huma koperti bil-permess; u li l-gholi addizzjonali ta' wiehed mill-garages gie sanzjonat bil-permess PA 3670/03; m'humix koperti bil-permess la x-xogholijiet indikati fl-Avviz ECF 258/10, u l-anqas ma huma koperti bil-permess l-istruttura ricenti fl-ewwel sular, u l-fetha gdida ghall-garage li m'humix indikati fil-pjanti.

In oltre ga ddikjarat fl-istess rapport li z-zewg strutturi fuq in-naha ta' wara tas-sit indikati bhala ezistenti qabel is-sena 1985, m'humix koperti bil-permess, u ma saritx talba biex dawn jigu sanctioned.

Dan l-istat ta' fatt hu ghalhekk in kontravvenzjoni tar-Regolament 14(1) tal-Avviz Legali 514 ta' l-2010 li jistabilixxi li meta fuq is-sit jezistu illegalitajiet dawn ghandhom jitnehew, jew issir talba biex jigu ssanzjonati.

Fil-kaz in ezami ghalhekk, irrizulta li hemm zvilupp fuq is-sit li hu illegali billi sar bla permess, u mhux qed jintalab sanctioning tieghu.

F'dawn ic-cirkostanzi ghalhekk li oggezzjoni tal-Awtorita' hi legalment fondata.

It-tieni motivazzjoni tar-rifjut hi fis-sens li l-appellant ma tikkwalifikax ghall-izvilupp propost ta' reservoir billi m'hijix registered farmer u ghalhekk dak propost mhux essenzjali ghall-htigijiet agrikoli; Policy 2.6A, para 1.2 u 3 tal-Policy & Design Guidance on Agriculture, Farm Diversification and Stables (December 2007). B'nota pprezentata fit-23 ta' Settembru 2011, giet ipprezentata 'Change of applicant form' minn Dorianne Vella ghall-Nicholas Formosa, iffirmata fit-12 ta' Settembru 2011. B'nota pprezentata fil-25 ta' Novembru 2011, gie ipprezentat document tal-ETC b'konferma li Nicholas Formosa hu registrat bhala 'farmer'. Fil-kors ta' smiegh ta' dan l-appell ma saret l-ebda talba biex l-appellanti Dorianne Vella tigi sostitwita min Nicholas Formosa.

L-applikazzjoni giet pprezentata fit-18 ta' Gunju 2010, saret f'isem l-appellanti Dorianne Vella; r-rifjut inghata fis-17 ta' Awwissu 2011, u l-appell gie pprezentat f'isem Dorianne Vella fit-13 ta' Settembru 2011, mhux permess li f'dan l-istadju

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inoltrat tal-proceduri, jinbidel l-applikant, billi jinhtieg li jsiru d-debiti verifiki dwar l-attivita' agrikola minnu dikjarata, u dan jista' jsir biss b'applikazzjoni gdida f'ismu.

Ezaminati fid-dettal, il-motivazzjonijiet tar-rifjut u l-aggravji tal-appell fil-kontest tal-Policies tal-Ippjanar rilevanti, l-appell ma jimmeritax konsiderazzjoni favorevoli.

It-Tribunal, ghalhekk qed jiddisponi minn dan l-appell billi jichad l-istess u jikkonferma r-rifjut tas-17 ta' Awwissu 2011 ghall-applikazzjoni PA 2802/10.

Ikkunsidrat

L-aggravji tal-appellant huma s-segwenti:

1. It-Tribunal zbalja fil-ligi meta qal illi fl-istadju ta' appell ma kienx possibli li jinbidel l-applikant. Billi l-Awtorita kienet irrifjutat l-applikazzjoni t-transazzjoni bejn l-appellanta qua xerrejja u Nicholas Formosa bhala sid sfaxxa. Nicholas Formosa kellu kull interess li jkompli bl-applikazzjoni. It-Tribunal iddecieda li l-appellant ma setax jinbidel u ta d-decizjoni teighu fil-konfront ta' Dorianne Vella. Il-perit ex parte indika dan kollu fl-appell u fil-fatt gie notifikat dejjem Nicholas Formosa u s-sottomissjonijiet saru minnu. It-Tribunal zbalja meta qal li ma saret ebda talba ghal bidla fl-appellant meta fil-fatt saret talba fit-23 ta' Settembru 2011 fil-mori tal-appell;
2. Ma hemmx xejn fil-ligi li jipprojbixxi bidla fl-applikant u t-tribunal zbalja meta fixkel dan mar-regoli dwar provi godda u zied li tali provi setghu jitressqu b'applikazzjoni gdida minn applikant iehor. Jezisti l-principju tal-ius superveniens u l-artikolu 42 tal-Kap. 504 jaghti d-dritt lit-Tribunal jirregola l-proceduri tieghu. In oltre jezisti l-istitut tal-intervenut skond l-artikolu 960 tal-Kap. 12;
3. It-Tribunal skarta l-aggravju li inghataw permessi simili bla ebda raguni ghal dan izda strah biss fuq li qalet l-Awtorita.

L-aggravji flimkien

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L-ewwel u t-tieni aggravji jista' jkunu ta' interess legali u akkademiku pero qeghdin josturaw l-ewwel u l-aktar raguni rilevanti u sostanzjali ta' rifjut kif konfermata mit-Tribunal, cioe illi jezistu diversi illegalitajiet fuq is-sit kif imsemmija fl-ahhar zewg paragrafi ta' pagna 9 tad-decizjoni tat-Tribunal, liema illegalitajiet fil-fehma tat-Tribunal mhux koperti b'permess u mhux qed tintalab is-sanzjoni taghhom. Jiskatta f'din l-eventwalita, kif ravvizata mit-Tribunal, l-applikazzjoni tar-regolament 14(1) tal-Avviz Legali 514/2010 cioe illi ebda applikazzjoni ma tista' tigi kunsidrata jekk f'tali applikazzjoni ma tkunx inkluzza talba ghal sanzjonar tal-illegalitajiet kollha. Gustament l-Awtorita fir-risposta taghha irrelevat dan u l-appellant baqa' sieket anki fit-trattazzjoni orali quddiem din il-Qorti.

Kull kunsiderazzjoni ohra li saret mit-Tribunal fuq kwistjonijiet ohra, gusti o meno, ma huma ta' ebda rilevanza darba deciz dan il-punt li jostakola kwalunkwe kunsiderazzjoni materjali dwar l-izvilupp.

Hi ghalhekk minghajr ebda rilevanza jew importanza fil-perspettiva tad-decizjoni tat-Tribunal fuq dan il-punt preliminari illi jigi kunsidrat jekk applikant jistax jigi sostitwit ma' iehor fil-mori ta' appell u jekk dan isir, safejn dan hu possibbli fil-kuntest tal-applikazzjoni u l-effetti li jista' jkollu fuq applikazzjoni pendenti. Daqstant iehor hu irrelevanti f'dan l-istadju l-aggravju dwar permessi simili avanzat mill-appellant meta l-akbar ostakolu cioe l-ezistenza ta' illegalitajiet ohra fuq is-sit mhix koperti b'permess, jew li ma jehtigux permess jew li qed jintalbu jigi sanzjonati f'din l-applikazzjoni mhux qed tigi b'xi mod mittiefsa fl-aggravji imressqa u kwindi mehuda bhala konfermati implicitament mill-applikant.

Ghalhekk dan l-appell ifalli ab initio ghax ebda aggravju ma jista' jigi kunsidrat jekk l-applikazzjoni infisha ma tistax tigi kunsidrata qabel jitnehhew l-illegalitajiet li mhux qed jigu mitluba jigu sanzjonati, u dan irrISPETTIVAMENT minn min hu verament l-appellant ossia applikant u min ghandu locus standi jaghmel l-appell. L-applikazzjoni tolqot lis-sit u r-rifjut jinghata kontra zvilupp fuq is-sit kif qed jigri f'dan il-kaz. Il-Qorti mhix tghid li l-persuna tal-applikant ma fihix l-importanza izda f'dan il-kaz u ghal finijiet biss tal-kontestazzjoni rilevata l-atti huma sani ghax l-appellant kien l-istess applikant u dan l-appell quddiem din il-Qorti sar ukoll ghal kull boun fini ghall-interess li jista' jkollu il-persuna li tallega ghandha interess fis-sit minghajr mal-Qorti qed tippronunzja ruhha fuq il-korrettezza procedurali ta' dan billi mhux

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pertinenti ghal fini ta' din id-decizjoni bazata kif inhi fuq l-applikazzjoni tal-artikolu 14(1) tal-Avviz Legali 515/2010.

Decide

Ghalhekk il-Qorti taqta' u tiddeciedi billi tichad l-appell tal-appellanti u tikkonferma d-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tal-24 ta' Lulju 2014, bl-ispejjez kontra l-appellant.

< Sentenza Finali >

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