



BORD LI JIRREGOLA L-KERA

Magistrat Dr. Monica Vella LL.D., M.Jur

CHAIRPERSON

Rikors numru 35/2015

Ta' Natu Limited (C-8167)

vs

MZ Supermarket Mosta Limited (C-67212)

Illum 19 t' Ottubru, 2015

Il-Bord:

Ra r-rikors guramentat tas-socjeta' rikorrenti li jghid hekk;

1. Illi permezz ta' skrittura privata ta' lokazzjoni datata 16 ta' Dicembru 2014 (kopja annessa u mmarkata bhala dokument TN1) is-socjeta' rikorrenti kriet lis-socjeta' intimata is-segweni fondi immobili:

- (a) The supermarket known as 'Ta' Natu Supermarket' (including the property formerly known as 'Stop and Save') situated in Constitution Street, Mosta having a separate access from Triq l-Ghollieq, Mosta, shown hatched with diagonal lines on the annexed plan marked Document 'A1', in its present state and condition tale quale, without the relative roof and airspace (hereinafter referred to as 'phase 1'; and
- (b) The ground-floor level comprising an intermediate floor forming part of a block of building as yet unnamed and without official number situated in Triq l-Ghollieq Mosta, together with an unloading area situated at street level in Triq l-Ghollieq, and four (4) parking spaces at street level and sixty six (66) car parking spaces situated at levels minus one (-1), minus two (-2) of the said block of building, altogether as shown coloured in blue on the annexed plans marked respectively as documents 'A2', 'A3', 'A4', 'A5', 'A6' and 'A7' which block of building is still to be constructed and is to be completed in shell form by the Lessor at his own expense, hereinafter referred to as 'Phase 2'. It remains understood that Phase 2 shall not include levels minus three (-3), minus four (-4), minus five (-5), the second (2nd) and third (3rd) floor levels, the penthouse level, the roof and airspace of the block of building of which Phase 2 forms part or the other areas of the said building, as shown on the said plans, and which are not coloured in blue;

- (c) The apartment, internally numbered five (5) formerly numbered three (3), situated at second floor level, forming part of a block of apartments known as 'Joanne Flats, situated in Constitution Street, Mosta, and which apartment is situated on the left hand side as one looks at the said block of apartment from Constitution Street without the relative airspace, and enjoying a perpetual right of use, transferrable to third parties, of the common parts of the said block including the drains and drainage system, hereinafter referred to as the 'Apartment'. The lessee shall have the right to place a water tank and air-conditioning compressors on the roof of the aforementioned block and should the owners of the airspace of the said block build further storeys, the said owners shall be obliged to move the said compressor or compressors and the water tank onto the newly built roof, at their expense.

U dana verso l-kera u taht il-pattijiet u l-kondizzjonijiet stipulati fl-istess skrittura ta' lokazzjoni;

2. Illi s-socjeta' intimata naqset milli thallas is-segwenti ammonti dovuti ai termini tal-precitata skrittura ta' lokazzjoni, senjatament:

- (a) L-ammont ta' sebgha u erbghin elf sitt mija tmienja u erbghin euro u erbghin centezmu (€47,648.40) kera inkluza t-Taxxa fuq il-Valur Mizjud, ghall-perjodu bejn l-1 t'April 2015 u t-30 ta' Gunju 2015 li saret dovuta fl-1 t'April 2015;
- (b) L-ammont ta' tmienja u hamsin elf erba' mija sitta u ghoxrin euro u tmienja u hamsin centezmu (€58,426.58)

rapprezentanti konsum tad-dawl u l-ilma da parti tas-socjeta' intimata mill-imsemmi fond, liema konsum ghandu jithallas mis-socjeta' intimata ai termini tal-precitata skrittura ta' lokazzjoni;

(c) Is-somma ta' mija hamsa u disghin elf euro (€195,000) dejn li s-socjeta' intimata assumiet li thallas ai termini tal-precitata skrittura ta' lokazzjoni;

3. Illi ghalhekk is-socjeta' 'rikorrenti hija kreditrici tas-socjeta' intimata fl-ammont kompressiv ta' tliet mija u elf hamsa u sebghin euro (€301,075) liema ammont huwa cert likwidu u dovut;
4. Illi minkejja diversi interpellazzjonijiet ghall-hlas is-socjeta' intimata baqghet inadempjenti u ma halsitx l-ammonti minnha dovuti;
5. Illi konsegwentement is-socjeta' intimata kisret il-kondizzjonijiet tal-lokazzjoni u l-istess lokazzjoni titqies li giet terminata;
6. Illi s-socjeta' intimata m'ghandhiex eccezzjonijiet xi tressaq ghat-talba tas-socjeta' rikorrenti;
7. Illi ghalhekk kellha ssir din il-kawza;

Illi ghalhekk, ghar-ragunijiet premissi is-socjeta' rikorrenti titlob bir-rispett lil dan l-Onorabbli Bord sabiex, prevja li jinghataw id-dikjarazzjonijiet u l-provvedimenti kollha opportuni:

1. Jiddeciedi din il-kawza bid-dispensa tas-smiegh ghall-finijiet tal-Artikolu 16A tal-Kap 69 tal-Ligijiet ta' Malta;
2. Tordna l-izgumbrament tas-socjeta' intimata mill-fond mertu tal-lokazzjoni datata 16 ta' Dicembru 2014;
3. Jiddikjara li s-socjeta' intimata hija vera, certa u likwida debitrice tas-socjeta' rikorrenti fl-ammont komplessiv ta' tliet mija u elf hamsa u sebghin euro (€301,075) rapprezentanti in kwantu ghall-ammont ta' sebgha u erbghin elf sitt mija tmienja u erbghin euro u erbghin centezmu (€47,648.40) kera inkluzo t-Taxxa fuq il-Valur Mizjud, ghall-perjodu bejn l-1 t'April 2015 u t-30 ta' Gunju, 2015 li saret dovuta fl-1 t'April, 2015, in kwantu ghall-ammont ta' tmienja u hamsin elf erba' mija sitta u ghoxrin euro u tmienja u hamsin centezmu (€58,426.58) rapprezentanti konsum ta' dawl u l-ilma da parti tas-socjeta' intimata mill-imsemmi fond, liema konsum ghandu jithallas mis-socjeta' intimata ai termini tal-precitata skrittura ta' lokazzjoni, u in kwantu ghall-ammont ta' mija hamsa u disghin elf euro (€195,000) dejn li s-socjeta' intimata assumiet li thallas ai termini tal-precitata skrittura ta' lokazzjoni;
4. Jikkundanna lis-socjeta' intimata sabiex thallas lis-socjeta' rikorrenti is-somma ta' tliet mija u elf hamsa u sebghin euro (€301,075) dovuta ai termini tat-tieni talba.

Bl-ispejjez u bl-imghax legali sal-effettiv pagament kontra s-socjeta' intimata rapprezentanti ta' liema qed jigu minn issa stess ingunti ghas-subizzjoni tagghom.

Ra illi s-socjeta' ntimata debitament notifikata baqghet ma dehrinx biex tikkontesta t-talbiet tar-rikorrenti;

Ra illi t-talba tas-socjeta' rikorrenti hija segwita b'dikjarazzjoni guramentata tal-fatti tas-socjeta' rikorrenti u kkonfermata minn Joseph Vella (K.I. 329254M) in rapprezentanza taghha liema fatti huma minnu maghrufa kompriz id-dikjarazzjoni illi l-intimat ma ghandu l-ebda opposizzjoni x'jista' jaghmel skond il-ligi;

Ra l-atti kollha tar-rikors;

Peress illi jimmerita illi t-talbiet tas-socjeta' rikorrenti ikunu milqugha bid-dispensa ta' smiegh fit-termini tal-artikolu 16A tal-Kap 69 tal-ligijiet ta' Malta;

Il-Bord qiegheed jilqa' t-talbiet kollha tar-rikorrenti u ghal fini ta' zgumbrament qed jipprefigi zmien tletin (30) jum mil-lum.

L-ispejjez ghandhom ikunu sopportati mis-socjeta' ntimata.

(ft) Magistrat Dr. Monica Vella LL.D., M. Jur.

Angelo Buttigieg
Deputat Registratur