Fit-Tribunal tal-Konsumatur

Agata Kapica

Vs

Dr Daniel Cassar – Regional Dental Clinic

CCT 244/24/MM

Today, 6th May 2025

The Tribunal

Having seen the plaintiff's claim, filed on 17th November 2024, wherein she seeks reimbursement of the sum of €5,000 paid for a dental procedure.

Having considered the respondent's reply, wherein he raises two preliminary pleas: first, challenging the competence of this Tribunal to hear the present case; and second, asserting that he has been wrongly sued and is not the proper defendant in these proceedings. The respondent submits that he holds no juridical relationship with the plaintiff in his personal capacity, as the dental procedure in question was carried out by another dentist. On this basis, he requests that the Tribunal declare him non-suited.

Having heard oral submissions on the preliminary pleas.

Considers

The Tribunal is established to resolve disputes between consumers and traders concerning the sale or hire of goods and the provision of services. The Consumer Affairs Act (Chapter 378 of the Laws of Malta) does not explicitly include or exclude specific types of claims

such as those involving personal injury or professional negligence. Therefore, on this basis, the Tribunal does not see any reason not to hear the case.

In addition, the Tribunal notes that the plaintiff is seeking monetary compensation through an action for damages, allegedly suffered at the hands of her dentist. The Council for the Professions Complementary to Medicine is not the appropriate forum for pursuing a claim for compensation arising from alleged dental malpractice. While the Council may investigate complaints of professional misconduct, its powers are strictly regulatory and disciplinary in nature and do not extend to awarding compensation or damages. As clearly stated in its official guidance, *"the Council does not have the authority to award monetary compensation to complainants; it may only take disciplinary action if professional misconduct is found."* Therefore, any claim for financial redress or personal injury must be brought before the competent forum, which has the requisite jurisdiction to determine liability and award damages in tort or contract.

With respect to the second plea, the Tribunal shall defer its judgment until all evidence has been presented.

Decide

For the reasons set out above, the Tribunal:

1. Rejects the defendant's first plea;

2. The Tribunal shall deliver its decision on the defendant's second plea together with the final judgment, following the hearing and determination of the merits of the case.

Dr Martha Mifsud LL.D.

Arbiter