Consumer Claims Tribunal

Fabio La Cagnina

Vs

Finish Furnish Ltd/Casafini

CCT 48/25/MM

Today, 24th June 2025

The Tribunal

Having seen the plaintiff's claim, filed on 10 March 2025, wherein he seeks the sum of five hundred fifty euro (€550) exclusive of VAT.

Having seen that the respondent was duly served with the notice of claim, but did not file a reply.

Having seen all the acts and documents of the case.

Having duly considered the testimony given under oath.

Considers

The Tribunal notes that the defendant company failed to file a reply on time and was not present for the sittings and was therefore declared to be contumacious.

That from a legal aspect, the Court of Appeal in the matter of **Noel Calleja et v. Middle Sea Valletta Life Assurance**, decided on 29 January 2005 held *"L-istitut tal-kontumacja huwa msejjes fuq il-presuppost li l-imħarrek, bin-nuqqas tiegħu li jwieġeb għax-xilja u t-talba da parti tal-attriċi, ikun wera dispett lejn is-sejħa għall-Qorti biex jidher quddiemha, liema*

dispett il-liġi tħares lejh bħala għemil li jistħoqqlu piena – dik li ma jkunx jista' jindahal fit-tressiq ta' provi billi dan jammonta għal forma ta' dižordni soċjali. Maż-żmien il-qrati Maltin iddeċidew li r-rigorozita` tal-proċedura għandha tiġi mitigata fis-sens li fejn il-Qorti tkun sodisfatta li ma kien hemm ebda nuqqas volut min naħa tal-persuna mħarrka li jista' jammonta għall-ħtija, m'għandu jkun hemm l-ebda diffikulta` li l-kontumaċja titqies bħala waħda ġustifikata. Di fatti l-ġurisprudenza interpretattiva stabbiliet ċertu fatturi li jirrendu l-kontumaċja mhux ġustifikabbli. Dawn huma fil-każ li l-kontumacja: kienet volontarja jew kolpuża; jew priva minn kawża ġusta; jew mankanza ta' impediment legittimu da parti tal-imħarrek li kien poġġa lill-istess fl-impossibilita` jew f'diffikulta` gravi li jippreżenta n-nota tal-eċċezzjonijiet tiegħu; jew ma kienx każ ta' żball invinċibbli."

That in the matter of **Market Handle Limited (C-49546) vs. Fahrenheit Freight Forwarders Co. Limited (C – 17421); Elaine Sant Galea u Alfa Company Limited** deċcided by the Civil Court, First Hall on 12 January 2012, held that *"Illi l-prinċipji li jirregolaw jekk il-kontumaċja hijiex bi ħtija jew le, ġew għadd ta' drabi mfissra u elenkati. Il-prinċipji huma li: (a) il-kontumaċja mhix ġustifikata jekk kienet volontarja; (b) jew jekk kienet kolpuża; (ċ) li jeħtieġ li biex tkun ġustifikata tiġi murija raġuni ġusta għas-sudisfazzjon tal-Qorti; (d) liema raġuni ġusta trid tissarraf f'impediment leġittimu; (e) li tali impediment irid ikun indipendenti mir-rieda tal-persuna kontumaċi; minbarra dan, (f) sabiex żball ikun meqjus bħala impediment leġittimu, irid ikun żball invinċibbli b'mod li (ġ) l-impediment leġittimu li jżomm lill-parti milli tressaq id-difiża tagħha jrid ikun dak li bnadi oħra ssejjaħ bħala una necessita' impellente di chiamata ad altri doveri imprescindibili; u (ħ) li l-impossibilita' li l-imħarrek jikkontesta t-talba jew li jidher għas-subizzjoni trid tkun gravi u fiżika jew, f'ċirkostanzi eċċezzjonali biss, waħda morali".* (Ara wkoll App. Ċiv: 12.12.1975 fil-kawża fl-imsijiet **Paul Grixti vs Direttur tax-Xogħlijiet Pubbliċi**; u l-kawża fl-ismijiet **Joseph Naudi Montaldo noe vs Emmanuel Xuereb** deċiża mill-Prim Awla tal-Qorti Ċivili fis-27 ta' Frar 1995).

That in the matter of **Beacom vs Spiteri Staines** decided by the First Hall, Civil Court, on the 9 December 1993 (Kollez. Vol: LXXVII.iii.195) held *"Illi sa minn dejjem, il-Qrati tagħna qiesu li jagħmlu differenza bejn il-kontumaċja b'tort u dik ġustifikabbli. Huma ssoktaw b'din il-linja wkoll sa dawn l-aħħar żminijiet u għarfu u fissru bejn dik il-parti mħarrka li turi disinteress assolut u l-oħra li turi kull fehma li tikkontesta l-kawża u li ma laħqitx għamlet dan jew ma laħqitx użat il-mezzi li tagħtiha l-liġi għal raġuni li ma kinitx taħti għaliha.* (Ara wkoll il-kawża fl-ismijiet **Francis Cutajar et vs Mariano Farruġia et** deċiża mill-Prim Awla tal-Qorti Ċivili tal-5 ta' Mejju 2011).

Considers

That the claimant confirmed under oath that he bought a kitchen from the defendant company and it was installed on the 29th January 2024 but it was not complete and it was missing some parts and other parts were not properly installed. The defendant company dispatched its installers twice after the installation to complete the project but the installer did not manage to finish the task because they did not have the proper tools and in fact the installer caused more damage. The claimant explained that the defendant company advised him to finish the project himself and he would be reimbursed for the cost incurred; however, upon sending a quotation of five hundred fifty euro (€550) exclusive of VAT, the defendant company refused to pay.

Considers

This Tribunal notes that Article 562 of Cap. 12 of the Laws of Malta provides that *"Saving any other provision of the law, the burden of proving a fact shall, in all cases, rest on the party alleging it"* and Article 559 states *"in all cases the court shall require the best evidence that the party may be able to produce"*.

The Tribunal notes that the plaintiff is credible and has presented documents ossia screenshots of conversations with the defendant company and a set of photos and explained in detail the timeline and history of the faults that he experienced.

In the Tribunal's view, the claimant is credible and has successfully substantiated the claim to the degree required by law. Therefore, on the merits, the Tribunal will proceed to rule in favour of the claimant.

Decide

After evaluating the evidence and the legal provisions applicable to consumer rights in Malta, the tribunal finds in favour of the plaintiff. For the reasons set out above, the Tribunal decides and definitively resolves to uphold and accede the plaintiff's request and order the defendant to pay the plaintiff the sum of five hundred fifty euro (€550) exclusive of VAT within two weeks.

Costs to be supported by defendant company.

Av. Martha Mifsud LL.D.

Arbiter