TRIBUNAL GHAL TALBIET TAL-KONSUMATUR

CONSUMER CLAIMS TRIBUNAL

MALTA

Fit-Tribunal tal-Konsumatur

Candy u Joseph Azzopardi

vs

Digital Eye - Kevin Sciberras

CCT 118/19/MS

17 ta' Ġunju 2020

It-Tribunal

Ra l-avviz tar-rikorrenti pprezentat fit-3 ta' Settembru 2019, fejn talbu lil dan it-Tribunal jikundanna lill-azjenda intimata u/ jew il-konvenut thallashom is-somma ta' €1,700, prezz ta' pakkett ta' servizzi fotografici imhallas mir-rikorrenti, liema servizz ma nghtatax fl-intier tieghu wara li l-konvenut ma onorax il-ftehim originali.

Ra r-risposta tal-konvenut Kevin Sciberras ipprezentat fit-3 ta' Dicembru 2019 fejn filwaqt illi kkontesta l-ammont allegatement imhallas mir-rikorrenti, kkonceda illi kien ghad hemm xoghol pendenti li kien lest li jwettaq wara li jithallas il-bilanc dovut.

Ra l-atti kollha tal-process.

Ra illi l-intima qatt ma deher biex jaghti ix-xhieda tieghu, anke meta l-kawza giet differita ghal gurnata ohra, fuq talba tieghu.

Ra illi fil-11 ta' Marzu 2020, il-kawza giet differita ghas-sentenza in difett ta' ostakolu.

Ra illi ma kien hemm l-ebda ostakolu ghal prolazzjoni tas-sentenza.

Ikkunsidra

Illi rrizulta mill-provi li r-rikorrenti pprestaw servizz ta' ritratti u *video* ghat-tieg taghhom minghand il-konvenut. Il-pakett shih kien jinkludi *pre-* u *post-wedding photography*, 20 x 16 *print* tal-ghazla taghhom, *photography and video service in HD* fil-gurnata tat-tieg, *personalised guest book, editing of digital Wedding Book, CD with images in High Resolution* u *3 HD DVDs*. (Ara Dok A). Dan kollu kellu jitlesta fi zmien xahrejn mit-tieg. It-tieg sar f' Mejju 2016. Dan il-pakkett kien jiswa €1700 (exc VAT) u depozitu

ta' hames mitt Euro gie imhallas mal-kuntratt. (ara *Wedding Form Booking* datat 11 ta' Jannar 2016).

Illi jidher illi originarjament il-pakkett shih kien jiswa €1,700 u dan anke skond ma xehed Joseph Azzopardi quddiem dan it-Tribunal. Sar depozitu ta' hamess mitt Euro mal-firma tal-kuntratt. Meta xehed quddiem it-Tribunal Joseph Azzopardi jghid illi ftit jiem qabel it-tieg ir-rikorrenti ddecidew illi xtaqu *drone footage* u ghal dan hallsu €450.00 iktar, li ghalih qatt ma nghataw ircevuta. Ghahekk b'kollox huma hallsu €2,150. Ir-rikorrent ighid li rcevew ir-ritratti tat-tieg u tal-*pre-wedding* izda mhux ir-ritratti tal-*post-wedding, digital album, video* u *drone footage*, u dan ghalkemm ir-rikorrenti kienu lahqu hallsu lill-intimat il-bilanc kollu. Minkejja diversi tentattivi biex jaghmlu kuntatt mal-intimat, dan qatt ma sehh u saru jafu illi l-hanut tieghu kien ghalaq u li nies ohra li kienu haddmu mieghu kellhom l-istess problema. Xehdet ukoll Candy Azzopardi li kkonfermat dak kollu li qal ir-ragel taghha.

Illi ghalkemm l-intimat ipprezenta risposta f'dawn il-proceduri, fejn ighid li ma jaqbilx mal-ammont li gie imhallas, qatt ma deher quddiem dan it-Tribunal biex jikkonferma r-risposta tieghu taht gurament u biex jaghti il-versjoni tieghu, ghalkemm inghata l-opportunita' kollha li jaghmel dan. Ghalhekk, it-Tribunal m'ghandux il-konfort ta' xiehda guramentata ohra li b'xi mod tikontradixxi dak li qeghdin ighidu r-rikorrenti.

Ikkunsidra

Ir-rikorrenti xehdu li huma hallsu €2,150: €1700 il-prezz originali li ghalih nghataw ircevuta fit-13 ta' Gunju 2016, u €450.00 ghal *drone footage* li ma kienx inkluz fil-pakkett originali u li ghalih ma nghatawx ircevuta. Mill-messaggi esebiti, jidher illi kien hemm qbil bejn il-partijiet illi r-rikorrenti kien ghad fadlilhom jiehdu il-video, ir-ritratti *post-wedding* u l-album. Fil-messaggi, l-konvenut qatt ma jichad dak li qeghdin ighidu r-rikorrenti, u cjoe' li kellhom jiehdu l-album, il-video u l-post-wedding photos. F'messaggi mibghut minnu, fit-28 ta Frar 2018 u fit-23 ta' Gunju 2018, l-intimat ighid hekk:

K - Hi Candy good morning... just to make sure. You seen the album already yes.? We just need to finalise it so you collect.

Yes, we need to meet to finalize and collect. We also need to collect post-weddiig photos and we need the video as well.

K - OK Candy I am going to make sure I finalize everything by next week ... will give you a call to collect most probably end of next week. Sorry for this but I went through some rough times will sort this out soon

K - Candy, cannot talk right now.. sorry i had some family problems but please send me your wedding date so i try and prepare everything for you then next week we speak so we agree on a date for everything to be ready.

Illi ghalhekk, ghalkemm l-intimat ma xehedx, it-Tribunal ghandu il-konfort ta' dawn il-messaggi li jikkorroboraw bi shih dak li qeghdin ighidu ir-rikorrenti u ghalhekk m'ghandu l-ebda raguni ghaliex jiddubita minn dak illi xehdu r-rikorrenti bil-gurament taghhom. It-Tribunal jissimpatizza mas-sitwazzjoni tar-rikorrenti illi minhabba n-negligenza u n-nuqqas ta' professjonalita tal-konvenut, m'ghandhomx rikordju tal-aktar gurnata importanti f'hajjithom. Ta' dan hadd u xejn ma jista' jikkumpenshom u t-talba taghhom hija ragonevoli ferm fic-cirkostanzi.

Ikkunsidra

Illi ghalkemm ir-rikorrenti hallsu €2,150 (1700 + €450), huma qeghdin jitolbu s-somma ta' €,1700, ghaliex tajjeb jew hazin, huma hadu xi affarijiet u cjoe' ir-ritratti tat-tieg u tal-*pre-wedding* u l-*guest book*. Pero' ma hadux il-*post wedding photography, digital album* u l-video (*including drone footage*). t-Tribunal ghalhekk ihoss illi ghandu jilqa' t-talba tar-rikorrenti fl-intier taghha.

Ghal dawn il-motivi, jaqta' u jiddeciedi illi jilqa' t-talba tar-rikorrenti u jikundanna lill-azjenda intimata/ intimat solidament ihallsu s-somma ta' elf u seba' mitt Euro (€1,700). Bl-ispejjes kontra l-istess azjenda intimata/ intimat.

Avv. Michela Spiteri
Arbitru