TRIBUNAL GHAL TALBIET
TAL-KONSUMATUR

CONSUMER CLAIMS
TRIBUNAL

MALTA

Fit-Tribunal Ghal Talbiet tal-Konsumatur

CCT 176/19/B

Emma Manduca
Vs
SG Solutions Limited

Illum, 12 t' Ottubru, 2020

It-Tribunal:

Ra l-avviz tar-rikorrenti ipprezentat fid-19 ta' Dicembru, 2019 li permezz tieghu ir-rikorrenti talbet lit-Tribunal tikkundanna lill-initmati sabiex ihallsu is-somma ta' tminn mija disgha u disghin Euro (€ 899) rapprezentanti l-prezz imhallas ghall-iphone mixtri mis-socjeta' Scan f' Settembru 2017

Ra illi l-s-socjeta' intimata ma rrispondietx ghall-avviz pero' dehret quddiem it-Tribunal u kkontestat it-talba illi dan l-ammont ma hux dovut stante illi l-mobile phone ma nxtarax minghand is-socjeta' intimata kif ukoll illi huma mxew mat-termini tal-garanzija illi tohrog l-Apple tant illi s-socjeta' intimata offriet replacement phone

Ra l-Atti tal-process;

Semgha ix-xhieda;

Ra d-Dokumenti esebiti;

Ra n-nota t'osservazzjoni u nota ta' sottomissjonijiet tal-partijiet;

Ra illi l-partijiet ma kellhom oggezzjoni illi l-kaz jithalla ghas-sentenza minkejja illi l-Arbitru li beda jismgha' kaz Kellu jinbidel;

Ikkunsidra:

Illi mill-fatti tal-kaz jidher illi l-pern tal-kaz odjern huwa jekk is-socjeta' intimata kienetx gustifikata illi toffri lir-rikorrenti *replacement phone* li seta' kellu refurbished parts jew inkella Kelliex toffri lill-esponenti iPhone gdid jew tigi rimborzata l-ammont li hija hallset ghall-istess mobile phone fl-amont ta' € 899.

Illi in succint il-partijiet jaqblu fuq is-segwenti fatti: Illi r-rikorrenti xtrat mobile phone minghand is-socjeta' "Scan" u dan f' Settembru tas-sena 2017. Illi r-rikorrenti nnutat illi l-batterija tal-mobile phone bdiet tinzel f'rata mghagla hafna. Illi l-esponenti hadet l-mobile taghha ghand is-socjeta' intimata u dan sabiex tibdel il-battery. Illi s-socjeta' intimata minkejja illi l-iphone ma nxtarax minn ghandha accettat li taghmel ir-riparazzjonijiet necessarji u dana bhala socjeta' li hija rikonoxxuta bhala *An Authorised Apple Service Provider* mis-socjeta' li timmanifattura l-iphone u cioe' 'Apple'. Illi s-socjeta intimata offrew illi tinbidel il-batterija minghajr ebda hlas u dan peress illi l-mobile kien ghadu fil-perjodu tal-garanzija, liema proposta giet accettata mir-rikorrenti.

Illi r-rikorrenti xehdet quddiem it-Tribunal illi hija bdiet tinnota illi wara xi ftit gimghat il-mobile beda jintefah, liema fatt kien rizultat illi l-battery kienet get *swelled*. Illi s-socjeta' intimata nfurmat lill-esponenti illi l-Policy tal-mother company 'Apple' hija li l-mobile jinbidel u dan peress illi jkun perikoluz tant illi rapprezentant tas-socjeta' intimata ikkonferma illi f'dan l-istat l-iphone seta' sahansitra jaqbad jew jisplodi. Illi ghalhekk r-rikorrenti giet offruta a replacement phone bhala safety measure u dan skont il-linji gwida tal-Procedura ta' l-Apple.

Illi s-socjeta' intimata nfurmat lir-rikorrenti illi replacement model jista' jkollu xi parts li jkunu refurbished ghall-liema fatt ir-rikorrenti oggezzjonat u talbet illi tinghata iphone gdid jew tigi rimoborzata fl-ammont li hija xtrat l-iphone taghha u cioe' € 899.

Illi t-Tribunal ikkunsidra illi l-kaz jittratta unikament jekk is-socjeta' intimata qdietx l-obbligi taghha meta hija offriet replacement phone lir-rikorrenti wara li l-battery giet swelled. Illi filwaqt li r-rikorrenti fin-nota t'osservazzjonijiet taghha tqajjem id-dubji jekk il-batterija kienetx difettuza jew gietx installata hazin, is-socjeta' intimata spjegat illi batterija difettuza ma tistax tinduna biha qabel ma tigi installata. Illi jidher li huwa pacifiku illi gialadarba il-batterija giet swelled kien perikoluz illi l-mobile jintemess tant illi s-socjeta' intimata mxiet mal-Linji gwida mahruga minn Apple u offriet li tghati replacement phone sabiex il-mobile unit jinbidel totalment filwaqt li l-mobile tar-rikorrenti jigi ritornat lura lis-socjeta' 'Apple'.

Illi t-Tribunal jinnota illi ghalkemm l-iphone inxtara mir-rikorrenti minn socjeta' terza ossija 'Scan' s-socjeta' intimata xorta Wahda bhala Authorised Supplier tad-ditta Apple accettat u ezegwiet d-doveri taghha skont il-garanzija tant illi hija bidlet l-batterija minghajr ebda hlas. Illi sfortunatament l-istess batterija irrizultat bhala diffettuza pero' is-socjeta' intimata ghal darb'ohra accetat ir-responsabilita' u skont il-linji gwida mahruga mill-mother company hija offriet lill-esponenti *replacement phone*.

Illi t-Tribunal jinnota illi mill-provi prodotti mhux kontradett illi skont l-garanzija mahruga mill-Apple, *replacement phone* seta' jkun: *"The unit is new or new with possibility of*

a refurbished parts inside[1]". Illi ghalhekk isegwi illi s-socjeta' intimata qdiet id-doveri kollha taghha skont il-proceduri li huma stipulati mill-kumpanija 'Apple' tant illi replacement phone gie mibghut mis-socjeta' Apple innifisha tant illi rapprezentant tas-socjeta' spejga lit-Tribunal: "*Meta ahna noffru replacement tal-mobile, il-hazin nibghatuh lil Apple. Normalment dawn jarmu kollox, jistghu jirriciklaw, xi afarijiet bhal bolts zghar, il- bqija bateries, chasis ecc dawn jarmu kollox. Dawk l-affarijiet li ma tmessux mal-klijent jistghu jigu riciklati*[2]".

Illi t-Tribunal iqis illi ghal dak li ghandu x' jaqsam mat-talba tar-rifuzjoni tal-prezz fl-ammont ta' tminn mija u disgha u disghin Euro (€ 899) din ma haqqiex tintlaqa' u dan peress illi l-istess mobile phone gie mixtri mis-socjeta' Scan u mhux minghand l-intimati. Illi ghalhekk ir-relazzjoni guridika ezistenti hija bejn ir-rikorrenti u s-socjeta' tal-istabiliment Scan filwaqt li r-relazzjoni bejn r-rikorrenti u socjeta' intimata hija limitata ghal garanzija tal-iphone, u kif spjegat iktar il-fuq l-istess socjeta' intimata mxiet skont il-garanzija u l-proceduri mahruga mill-Apple.

Ghalhekk fic-cirkustanzi, it-Tribunal iqis illi t-talba tar-rikorrenti ghandha tigi michuda pero' ir-rikorrenti ghandha d-dritt illi titlob lis-socjeta' intimata tinghata r-*replacement phone* ai termini tal-istess garanzija.

DECIDE

Ghaldaqstant, it-Tribunal qed jaqta u jiddeciedi dan l-avviz, ghar-ragunijiet fuq spjegati, billi jichad t-talba tar-rikorrenti bhala wahda mhux soffencjtament ppruvata skont il-Ligi.

Bl-ispejjez ta' dawn il-proceduri jithallsu mir-rikorrenti.

Avv. Paul Borg
Arbitru

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[1] Ara xhieda tar-Rapprezentant tas-Socjeta intimata

[2] Ibid.