



Fit-Tribunal tal-Konsumatur

Rina Abela

vs

Little Princess Salon

CCT 113/21/MS

28 ta' Gunju 2023

It-Tribunal

Ra l-avviz tar-rikorrenti pprezentat fl-14 ta' Lulju 2021 fejn talbet is-somma ta' €980.00, kwantu ghal hames mitt euro (€500.00) danni morali u kwantu ghal erba mija u tmenin euro (€480.00), depozitu imhallas fuq libsa tal-pracett li hija ordnat mill-azjenda intimata, liema libsa ma kenitx tal-kwalita' pattwita.

Ra r-risposta tal-azjenda intimata ipprezentata fid-19 ta' Novembru 2021, fejn cahdet it-talba tar-rikorrenti bhala infondata fil-fatt u fid-dritt u qalet illi jekk hemm flus dovuti, hija r-rikorrenti se mai li ghandha taghti l-flus lill-azjenda intimata u mhux vice-versa.

Ra l-atti kollha tal-kawza

Sema' x-xiehda bil-gurament

Ikkunsidra

Illi rrizulta mill-provi illi fil-25 ta' Jannar 2021 ir-rikorrenti ordnat libsa tal-pracett "*princess style*" ghall-bintha minn fuq kampjun, li kellha tigi konsenjata tlett xhur wara, f'April. Ir-rikorrenti tghid li l-libsa kellha tigi lesta minn barra u s-servizz kien jinkludi wkoll hajjata ghal kwalunkwe *alterations* mehtiega. Ir-rikorrenti tghid illi dakinhar, f'Jannar kien hemm persuna li kejlet it-tifla, li wara saret taf li kienet omm l-intimata. Hallset id-depozitu ta' €480.00 dakinhar tal-ordni.

Minhabba l-Covid, inghatat appuntament biex tmur ghall-libsa f'Mejju u meta marret biex tippruvaha skond il-ftehim, sabet li l-libsa ma kenitx *princess style* bhal dik tal-kampjun izda A-line. Skond ir-rikorrenti, il-libsa kienet mxattra, mqatta' u qasira u ma kenitx bl-istess gmiegh li kienet ordnat. Ir-rikorrenti tghid li l-intimata serhitilha rasa u regghet marret hmistax wara, pero' sabet libsa dizastru b'hafna diffeti. Wara tlett ijiem regghet marret ghand il-hajjata u sabet id-dublett ta' fuq imgongi. Tghid ukoll illi l-libsa li ordnat



ma ratha qatt fuq bintha u l-hajjata qaltilha li ma setghet taghmillha xejn iktar minhabba nuqqas ta' materjal. Sadanittant, kienu hmistax - il gurnata ' l boghod mill-pracett u zmien li suppost kien sabih inbidel ghal wiehed teribbli. Spjegat illi hi kienet hadet il-libsa ghaliex kienet fi stat ta' paniku u riedet issib hajjata ohra biex tipprova tirrangaha. Fl-ahhar spiccat sabet hajjata ohra u ghamlet libsa gdida ghall-okkazjoni. Ir-rikorrenti tghid illi ghalkemm l-intimata talbitha il-bilanc tal-flus hi ma tathomliex. Ir-rikorrenti qed titlob is-somma ta' €980 - €480.00 - id-depozitu li hallset ghall-libsa u €500.00 bhala danni morali.

Illi min-naha l-ohra l-intimata Medazoe Berenyi tikkonferma illi r-rikorrenti ordnat il-libsa fil-25 ta' Jannar 2021 u dakinhar hadu ukoll il-kejl tat-tifla. Ikkonfermat wkoll illi tatha appuntament biex tigi ghall-libsa fit-3 ta' Mejju, izda dakinhar indunat illi t-tifla kienet kibbret iktar milli kien mistenni u l-libsa gietha qasira, u dan minkejja illi hi kienet hasbet ghal dan. Accetat illi ttawwal il-libsa u hadet il-libsa ghand il-hajjata Monica Mifsud, f'Santa Venera u ordnat iktar materjal. L-intimata tghid li fis-17 ta' Mejju ir-rikorrenti u t-tifla regghu gew ghall-appuntament biex tipprova l-libsa izda ir-rikorrenti ma kenitx kuntenta u bdiet tghajjat, thedded, tinsulta u tidghi quddiem it-tifla taghha. Qalet ukoll illi r-rikorrenti riedet tiehu l-libsa maghha izda hi qaltilha illi l-ewwel trid thallas il-bilanc. Sadanittant, ir-ragel taghha qabad il-libsa u hareg biha minghajr ma hallsu. Dahlu l-pulizija u r-rikorrenti rritornat il-libsa dakinhar stess, siegha wara fejn lahqu kompromess - u cjoe' illi hadd mill-partijiet jipprocedi legalment. Qabblu li l-intimata kienet ha ggib iktar materjal a spejjes taghha u li r-rikorrenti kienet ser thallas ghall-modifikazzjoni tal-libsa.

L-intimata esebiet ukoll numru ta' messaggi skambjati bejnha u l-hajjata illi hadmet fuq il-libsa, kif ukoll dikjarazzjoni ffirmata minghand l-istess hajjata Marica Mifsud. Skond il-hajjata il-genituri tat-tifla kienu kuntenti bir-rizultat wara li saru l-modifikazzjoni u t-tifla tant kienet kuntenta illi xtratilha kartolina biex tiringrazzjaha. Ftehm fuq pagament ta' sittin euro ghal dawn il-modifikazzjonijiet, pero' r-rikorrenti biddlet mohha u ddecidiet illi l-libsa ma kenitx dik li xtaqet hi, u bdiet tghajjat magna. L-intimata qalet ukoll illi ghalkemm ir-rikorrenti ghad fadlilha taghti hames mitt euro tal-libsa, u diversi spejjes ohra relatati mal-modifikazzjoni tal-libsa, ddecidiet illi ma tipprocedix kontriha.

Ikkunsidra

Illi permezz ta' din il-kawza, ir-rikorrenti qieghda titlob l-ammont ta' disa mija u tmenin euro - kwantu ghal hames mitt euro danni morali u kwantu ghal erba mija u tmenin euro depozitu mhallas ghall-libsa ordnata minghand l-azjenda intimata, liema libsa ma kenitx tal-kwalita' pattwita u konformi ma' dak li hija ordnat. Illi min-naha l-ohra Medazoe Berenyi rapprezentanta tal-azjenda intimata, filwaqt li tikkonferma illi l-libsa kellha bzonn fit-modifikazzjonijiet, tghid illi meta saru dawn il-modifikazzjonijiet, ir-rikorrenti u t-tifla taghha ghall-ewwel kienu kuntenti bil-libsa umbaghad, ghal xi raguni, r-rikorrenti



iddeciediet illi ma kenitx ha thallas il-bilanc u l-ispejjes tal-*alterations* skond dak miftiehem.

Ikkunsidra

Illi t-Tribunal ghandu quddiemu order form bin-numru 3054/2021 datat 25/1/21, li pero' mhuwiex iffirmit mir-rikorrenti.

Illi l-ilment principali tar-rikorrenti hija li l-libsa kienet qasira u ma kenitx 'princess style'. Dan il-fatt - u cjoe' li l-libsa kienet qasira, ma giex negat mill-intimata li ammettiet illi l-libsa kienet qasira u li kien hemm bzonn ta' iktar materjal. Fil-fatt, fix-xhieda taghha, l-intimata tghid li l-intimata giet darbtejn mat-tifla u f'dawn iz-zewg okkazonijiet hadulha l-kejl. Tghid ukoll illi kien hemm zewg persuni differenti li hadulha l-qisien, u fil-fatt dawn il-qisien inbiddu. Effettivament, fil-parti fejn ittiehdu l-qisien, hemm it-thazziz u jidher illi dawn ic-cifri inbiddu.

"The first measurements were taken by someone else but I took the measurements on the 25th. In fact you can see that on the third page, the measurements are crossed out because we took the second measurements ..."

"her daughter tried on the dress and it was in fact short. I tried to talk with Ms Rina in the presence of her daughter and her husband and they were not happy and we agreed that we would make the dress longer. I took the new measurement for the skirt length which was 84 and that was done in May ..."

Dan ifisser, kwindi, illi l-order form gie mibdul u modifikat diversi drabi. Fil-fatt, is-skirt length, l-ewwel kien indikat mod u thazzez (x'aktarx f'Dicembru 2020), umbaghad gie indikat bhala 7C (prezumibilment f'Jannar), umbaghad, skond l-intimata, f'Mejju gie indikat minnha bhala 84.

Dawn id-diskrepanzi ma jawguraw xejn tajjeb, u kif ikkoncediet l-intimata stess, fix-xiehda taghha, il-fatt illi r-rikorrenti ma ffirmatx l-ordni kien '*oversight*' min-naha taghha u dawn il-qisien ghalhekk ma kienux konfermati mir-rikorrenti. Illi mix-xiehda tal-intimata, jidher ukoll, illi l-hajjata Monica Mifsud ma kenitx prezenti meta l-qisien ittiehdu u lanqas kienet prezenti ghall-ewwel fitting tal-libsa. Fil-fatt, fid-dikjakrazzjoni taghha stess, Monica Mifsud tghid illi l-ewwel darba li saret taf bil-klijenta kien biss f'Mejju 2021 meta l-intimata talbitha taghmel modifikazzjoni tal-libsa. L-intimata tghid hekk:

"I took the new measurement for the skirt length which was 84 and that was done in May and I contacted Monica Mifsud the tailor, to make the dress as soon as possible. The dress was finished in under two weeks and they came back on the 17th May 2021. On the 17th May we tried the dress on and since the tailor could not see the girl, now the dress was



long. I called the tailor and she said it was not possible for her to come because she had a lot of work ...” (sottolinear tat-Tribunal)

Dan jikkombaca ma’ dak li qalet ir-rikorrenti u cjoe’ illi hi qatt ma rat il-hajjata u li l-intimata kienet timla l-libsa bil-labar u tehodha hi ghand il-hajjata.

Illi jidher pero’, illi fl-20 ta’ Mejju ir-rikorrenti u t-tifla iltaqghu mal-hajjata. Filwaqt li l-hajjata tghid illi huma kienu sodisfatti bir-rizultat, ir-rikorrenti tghid illi l-libsa kienet kompletament differenti u li meta ingibdet l-attenzjoni tal-hajjata, hija bdiet tirrabja u qalet li ma setghetx taghmillha iktar ghaliex ma kellhiex bizzejjed material.

Ikkunsidra

Illi bhala fatt il-libsa kienet qasira mill-bidu nett u ta’ dan ghandha tahti l-intimata, li wara kollox hadet hsieb li tiehu l-qisien hi stess. Il-mod dilettaresk ta’ kif dawn il-qisien ittiehdu u l-fatt illi ittiehdu iktar minn darba, u minn nies differenti, u l-fatt ukoll illi l-hajjata ma kenitx prezenti mill-bidu nett, u lanqas meta saret l-ewwel modifikazzjoni f’Mejju, ma tantx jaspira fiducja u jkompli jinduci dan it-Tribunal favur il-versjoni tar-rikorrenti .

Wara li qies ic-cirkostanzi, it-Tribunal jidhirlu illi ir-rikorrenti ghandha ragun fit-talba taghha u ghandha dritt tiehu lura d-depozitu li hallset. Pero’ t-Tribunal ma jidhirlux illi hemm lok ghal danni morali.

Ghal dawn il-motivi, jaqta’ u jiddeciedi illi jilqa’ parzjalment it-talba tar-rikorrenti u jordna l-azjenda intimata thallasha s-somma ta’ erba’ mija u tmenin euro. Bl-ispejjes kontra l-istess azjenda intimata.

Michela Spiteri LL.D.

Arbitru