



Julia Jogoditsch

vs

Reboot - Justin Buttigieg

CCT G3/20/MS

15th September, 2023

The Tribunal,

Having seen the plaintiff's claim dated 26th February 2020;

Having seen that defendant failed to reply to said claim.

Having seen the acts of the case and heard the parties under oath.

Considers

That in June 2018, plaintiff went to Reboot to seek advice about purchasing a new desktop computer for private and professional use. Plaintiff states that she is a professional photographer and explained to defendant that she wanted a strong and powerful computer. She claims that defendant promoted the 2011 iMac that he was previously using himself and told her that it was in perfect working condition. Plaintiff says that after some research and consideration, she purchased the iMac from him for the price of one thousand euro, which included some software. Two weeks later, when she sat down to edit a few photographs, the computer froze and stopped working. Plaintiff contacted defendant, who initially seemed quite dedicated to fixing the problem, but a few weeks and 'deadlines' later, she received no update about the state of the computer. After about a month, the computer was returned to her but unfortunately the problem persisted and the waiting periods got longer - even up to six months, without any information. Every time the computer was returned to plaintiff, the computer froze. According to her, defendant always claimed to have changed various parts but never showed any proof of this. She also said that the iMac smelled of cigarettes and that she was told this could be part of the problem. Due to the fact that defendant was not able to fix the problem which persisted for one and half years, she referred her case to the Tribunal. In her affidavit, plaintiff requests the payment



of the full sum of one thousand euro, together with a further sum representing moral damages suffered at the hands of defendant.

That although defendant did not file a reply in this case, he was allowed to testify. Defendant confirmed that claimant had sought his professional advice regarding a computer. He offered her his own upgraded iMac which he had used himself without any problems. Having upgraded it, he decided to sell his computer in 2018. The computer was second hand and for that reason he could not offer her an official warranty but he assured her that if she had any issues with it, he would be willing to help. In fact when applicant contacted him, he checked the computer various time and according to him, it was fine. He also said that he is not a photographer and does not make use of it for photoshop. He argued that the computer itself did not have any issues and if anything it was the software being used by the plaintiff which was the problem as this was not original.

Considers

That plaintiff bought a second hand lap-top from defendant company on August 1, 2018 for the price of one thousand euro (€1000.00) (see attached receipts). Defendant did not provide a written guarantee but assured plaintiff that he would assist the applicant with any problems or issues should these arise. Moreover, since defendant was acting in his professional capacity, he is bound by law to guarantee the product for a two year period.

Plaintiff states that she is a professional videographer and photographer and wanted a specific computer program for photo and video purposes. She explained to defendant what she needed and he told her that he had the right computer for her purposes. She also claims that she did some research to better understand the technical specifications of the computer in question and after 'research and consideration' she decided to purchase the computer. She said that a few weeks later when she started to edit the first batch of photographs, the computer stopped working abruptly.

Considers

That plaintiff is requesting the sum of one thousand euro in addition to an amount in moral damages, after she bought a second hand computer which stopped working a few weeks after purchase. Defendant contends that there is nothing wrong with the computer in question and the problem could be related to a software issue.

That although the Tribunal is satisfied that the computer in question was not working as it should, it fails to understand why plaintiff did not obtain a professional report on the state of the computer. Despite the fact that in her affidavit she states that she discussed the issues with other IT professionals, she did not ever ask these



professionals to inspect the computer in question and draw up an independent report.

Plaintiff attributes this to the fact that at the time the computer was still in the possession of defendant, but she had plenty of time to do this, given that the computer was never actually returned to defendant after September 2019. In fact although it has been five years since the fault develop she effectively retained possession of the faulty computer and did not ever deposit it in Court. It appears that plaintiff is not longer living in Gozo and that the computer is being retained by a third party, although this is not entirely clear.

That considering that the computer was going to be made use of for professional purposes and considering the nature of the profession (photography and videos), it was short-sighted of the applicant to purchase a second hand computer without having it properly tested beforehand, especially since plaintiff claims she carried out research on the matter. Be that as it may, once plaintiff discovered that the computer was faulty and initiated proceedings, she should have first procured an independent report attesting to the computer fault and then returned the computer to defendant.

On the other hand, defendant, can't rely upon the fact that the issue was a software problem, when he himself installed the software and when there is no proof that this was indeed a software issue.

That although the Tribunal is morally satisfied that the computer was defective, it feels that claimant did not go about the case in the proper manner and this should be reflected in the amount the Tribunal awards.

In the circumstances and after having considered the evidence presented and the fact that the computer is still "in plaintiff's possession" the Tribunal is dismissing plaintiff's request for moral damages.

For these reasons, the Tribunal is partially acceding to plaintiff's claim and orders defendant to pay her the sum of six hundred (€600.00) euro. The computer is to be returned to defendant once the amount is settled. With costs that are to be shared between the parties.

A handwritten signature in blue ink, appearing to read 'M. Spiteri'.

Michela Spiteri LL.D
Arbiter