



Tarcisio Mercieca

vs

Bernard Portelli - Portelli Woodworks

CCT G14/23/MS

27 ta' Gunju 2025

Ra l-avviz tar-rikorrent ipprezentat fl-4 ta' Settembru 2023 fejn talab lil dan it-Tribunal jikundanna l-intimat ihallsu s-somma ta' elfejn tlett mija u hamsin Euro, u dan wara li r-rikorrent inkariga l-intimat jaghmillu xoghol tal-injam konsistenti f'bibien u aperturi, liema xoghol ma sarx skond l-arti u s-sengha, tant li wara sentejn jew inqas bdew johorgu diffetti, u dan kif spjegat fl-avviz tat-talba.

Ra r-risposta tal-intimat fejn cahad it-talba tar-rikorrent u qal illi x-xoghol ordnat mir-rikorrent gie imwahhal tliet snin ilu u ghalhekk dak li qed jilmenta minnu huwa dovut ghal varjazzjonijiet fi klima stagjonali kif ukoll ghal fatt illi l-aperturi huma esposti ghal sieghat twal direttament fix-xemx; illi minkejja li r-rikorrent gie imwissi biex jiehu l-prekawzjonijiet mehtiega biex jiprotegi l-aperturi mix-xemx, huwa baqa' ma tax widen; illi x-xoghol sar skond l-arti u s-sengha u ma hemm ebda responsabbilta' da parti tal-esponent ghall-ilment tar-rikorret. Salv twegibiet ohra fil-fatt u fid-dritt.

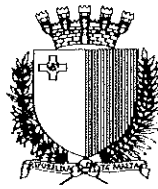
Sema' x-xhieda bil-gurament.

Ra r-rapport tal-perit tekniku nnominat mit-Tribunal permezz ta' digriet tat-2 ta' Ottubru 2024.

Ra l-atti u d-dokumenti kollha tal-kawza.

Ikkunsidra

Illi rrizulta mill-provi illi fis-sena 2019, ir-rikorrent ordna xi xoghol tal-injam minghand l-intimat, konsistenti f'zewg bibien - wiehed principali tat-triq u iehor f'gallarija fis-sular ta' fuq, kif ukoll tieqa fil-pjan terran. Ix-xoghol gie installat f'Novembru 2020 u r-rikorrent b'kollox hallas is-somma ta' €5,600. Ftit inqas minn sentejn wara, f'Settembru 2022, ir-rikorrent innota li x-xfar tal-kantunieri tat-tliet aperturi kienu qed jitqaxxru u meta mar ghand l-intimat, dan qallu illi kien ser jiehu hsiebhom. Baqghu sejrjn sa' Gunju 2023, sakemm l-intimat biddel id-diskors u qallu li ma kienx responsabbli. Spjega illi l-aperturi ma tantx huma esposti ghax-xemx, imma anke kieku, l-intimat kien jaf illi dawn kienu ser jigu fuq barra. Meta ha parir minghand mastrudaxxi ohra, qalulu illi l-problema ma kenitx ix-xemx izda kien dovut ghal xoghol hazin. Qal ukoll illi l-intimat kien qallu illi hu m'ghadux juza l-istess materjal 'water based' imma issa qed juza materjal iehor. Ir-rikorrent ipprezenta stima tax-xogholijiet rimedjali li ghandhom isiru fl-ammont ta' elfejn seba mija u hamsa u ghoxrin Euro.



Illi min-naha l-ohra l-intimat, filwaqt illi qabel illi lejn l-ahhar tas-sena 2020 ghamel xi xoghol tal-injam (zewg bibieb tal-injam (wiehed fuq u wiehed isfel) u tieqa tal-injam) ghand ir-rikorrent, ighid illi hu kien ghamilha cara mill-bidu nett mar-rikorrenti illi kellu jaghmel purtiera biex jipprotegi l-faccata mill-elementi tax-xita u x-xemx, izda r-rikorrent ma kienx ta widen. L-intimat qal li hu ma kienx lest illi jaghmel xoghol ta' manutenzjoni wara erba' snin minhabba nuqqas ta' manutenzjoni da parti tar-rikorrent kif ukoll nuqqas ta' protezzjoni mill-elementi tax-xemx u x-xita.

Ikkunsidra

Illi l-kaz jitratta dwar appalt li r-rikorrent ta lill-intimat ghal xoghol ta'injam fid-dar tieghu. Ix-xoghol kien jikkonsisti f'zewg bibien u tieqa u l-prezz kien ta' €5600 (inkluz VAT). (Ara ircevuta fiskali datata 15 ta' Jannar 2021 mahruqa mill-intimat.

Illi dan it-Tribunal inkariga lil Profs. Michael Formosa bhala espert tekniku biex jiffissa access fil-fond tar-rikorrenti fil-presenza tal-partijiet sabiex jirrelata fuq il-mertu tal-kaz, u cjoe' jekk l-imsemmi xoghol ta' injam sarx skond is-sengha u l-arti u s-sengha.

Illi mir-rapport imhejji mill-perit tekniku, gie ikkostatat is-segwent:

L-injam u l-aperturi

The wooden apertures under examination were constructed in 2020 and are recessed approximately 40 cm within the property's facade. The material used for these structures is *Milicia excelsa*, commonly known as Iroko. The doors and window were varnished, with the finishing reportedly consisting of a sealant designed to enhance adhesion to the oily wood surface, followed by a stain application and a water-based varnish applied through spraying.

Double glazing was utilised for these apertures, enhancing their resistance to environmental exposure.

The apertures face a North orientation and are situated on a narrow street approximately 6.5 metres wide. Opposite the property are low-rise buildings that provide minimal shelter from environmental conditions, leaving the apertures exposed to ambient weather, particularly UV radiation, wind and precipitation.

Il-hsara:

The primary damage observed on the apertures pertains to the surface coating, specifically the varnish. There is evident lack of adhesion in certain areas, particularly near the edges of the apertures. Fading of the colour was also noted, predominantly on the panelled surfaces. In contrast the internal faces of the apertures remain in good condition, with significantly less damage observed.

Interestingly, the upper portions of the apertures exhibited less deterioration compared to the lower sections. This disparity is likely due to the protective effect of the 40cm recess, which shields the upper parts from direct exposure to environmental conditions. The internal panelled doors located



behind the double glazing, show less varnish deterioration or fading, indicating effective protection from external factors such as UV radiation and precipitation.

Il-kawzi potenzjali tal-hsara: (a combination of environmental factors, material properties and application techniques.)

Ultraviolet Radiation.

Ultraviolet radiation has undoubtedly contributed to the deterioration of the varnish. Prolonged exposure to UV rays can degrade surface coatings, leading to colour fading and loss of adhesion. The orientation of the apertures and the limited shelter provided by the surrounding environment further exacerbates UV exposure. Internal surfaces protected by double glazing are less affected, underscoring the impact of UV radiation on exposed areas.

Water-Deposition:

While water deposition is a possibility, it is unlikely to occur frequently given the specific conditions required. For water to impact the aperture significantly, inclined rain, driven by North winds must make contact with the surface. The recess and street layout appear to limit such occurrences.

Heat and Direct Sunlight:

Although the North-facing orientation reduces direct sunlight exposure, occasional heat and light during specific months could still contribute to the varnish's degradation. The lower sections of the apertures, which are less protected, show more damage, supporting this hypothesis.

Material and Application Factors.

The quality of the varnish used and its method of application may also be contributing factors. If a less durable varnish or improper application techniques were employed, the surface coating would be less capable of withstanding adverse conditions.

Conclusions:

.. it is evidence that the deterioration of the varnish on the wooden apertures is a result of multiple contributing factors. UV radiation appears to be the primary cause, given its well-documented impact on surface coatings and the extent of colour fading observed. Secondary factors, such as potential issues with varnish adhesion and environmental exposure to heat, sunlight and occasional precipitation, likely compounded the damage over time.

Although it is challenging to conclusively determine the varnish's initial application quality without analytical testing, it is reasonable to suggest that the use of a more durable product, such as a two-pack varnish with added hardener, might have delayed or mitigated the deterioration. However, such products are costlier and require more complex application and maintenance processes.

Lastly, while external shading could have reduced UV exposure and prolonged the life of the varnish, such measures may have compromised the facade's aesthetic and functional qualities, such as light ingress and security.



MALTA

Ikkunsidra

Illi t-Tribunal huwa sodisfatt illi filwaqt li kien hemm diversi fatturi ambjentali li kkontribew għall-degradazzjoni tal-varniċ, fosthom l-espożizzjoni għar-raġġi ultravjola (UV) u fatturi oħra, kif tajjeb osserva l-espert, madankollu, mir-rapport, huwa daqstant ċar li dan id-deterjorament seta' ġie mmitigat jew ittardjat jekk intuża materjal ta' kwalità superjuri jew applikazzjoni aktar xierqa.

It-Tribunal jagħmel referenza għal dik il-parti tar-rapport, fejn l-espert qal hekk:

The observed deterioration could result from a combination of environmental factors, material properties and application techniques.

There is evident lack of adhesion in certain areas, particularly near the edges of the apertures. Fading of the colour was also noted, predominantly on the panelled surfaces.

The quality of the varnish used and its method of application may also be contributing factors. If a less durable varnish or improper application techniques were employed, the surface coating would be less capable of withstanding adverse conditions.

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Illi l-intimat, bħala persuna professjonali li kien inkarigat specifikament biex jagħmel xogħol fuq aperturi esterni tal-injam, seta' jantiċipa l-presenza tal-elementi ambjentali — bħar-raġġi UV, sħana, umdità, perkolazzjoni tal-ilma ecc. Din hija xi haga normali li ma tistax tahrab minnha u mix-xhieda tal-intimat quddiem dan it-Tribunal, jidher illi dan il-fatt kien ewlieni f'moħhu tant li huwa kien mal-ewwel gibed l-attenzjoni tar-rikorrent biex jpoggi purtiera biex jipprotegi l-bibien ta' barra.

Dan ikompli jsahhah il-konvinzjoni tat-Tribunal illi l-varniċ/ prodott li ntuzza mill-intimat seta' kien ahjar.

Fl-umli fehma tat-Tribunal, kien ikun ahjar jekk minflok jissugerrixxi l-użu ta' purtiera, ntuzza varniċ superjuri/ iktar b'sahhtu, li kien iktar jilqa' għal dawn il-kundizzjonijiet, jew almenu offra lir-rikorrent l-għażla ta' finituri differenti tenut kont tal-elementi u c-cirkostanzi ambjentali, anke jekk dan kien jizdied il-prezz. Umbagħad kien ikun sta għar-rikorrent illi jagħzel l-finitura li jixtieq hu.

Għalhekk, għakemm it-Tribunal jifhem u japprezza illi kien hemm diversi fatturi oħra li kkontribew għal din il-hsara, meta t-Tribunal qies ic-cirkostanzi kollha, inkuz illi fatt illi l-ambjent kien 'North Facing' u kienu għaddew biss sentejn jew inqas mill-installazzjoni (u mhux erba' snin kif xehed l-intimat), huwa daqstant konvint illi dawn il-fatturi ambjentali gew aggravati u accelerati mill-fatt illi l-prodott li ntuzza ma kienx l-ahjar wiehed biex jilqa' għall-fatturi ambjentali. It-Tribunal huwa propens ukoll illi jemmen il-versjoni tar-rikorrent, u cjoe' ili meta ilmenta mieghu l-ewwel darba, l-intimat kien offra illi jiehu hsiebhom, imbagħad biddel moddu.



MALTA

Illi l-argument li r-rikorrent missu poġġa purtiera quddiem il-bieb biex jipproteġi l-bieb huwa argument absurd li ma jreggix. Il-protezzjoni kontra l-elementi kellha ssir l-ewwel u qabel kollox permezz ta' prodotti adegwati u mhux permezz ta' miżuri li jnaqqsu l-funzjonalità u l-estetika tal-aperturi.

Illi, t-Tribunal japprezza wkoll illi l-użu ta' prodott superjuri kien jizidied il-prezz tal-appalt u r-rikorrenti kien ikollu iħallas iktar, pero' a lungo andare, id-deterjorazzjoni kienet tiehu hafna iktar hin.

Illi ghalkemm ir-rikorrent ipprezenta stima tax-xogholijiet rimedjali fl-ammont ta' elfejn tlett mija u hamsin euro, din ma gietx iffirmata u l-awtur Kirk Pirota ma xehedx quddiem dan it-Tribunal biex jikkonferma l-istima.

Meta qies ic-cirkostanzi kollha, it-Tribunal jidhirlu li għandu jillikwida l-kumpens dovut lir-rikorrent, arbitrio bono viri, u qed jiffissa dan fl-ammont ta' tmien mitt euro.

Għal dawn il-motivi, it-Tribunal jaqta' u jiddeciedi illi jilqa' parzjalment it-talba tar-rikorrent u jikundanna l-intimat iħallsu l-ammont ta' tmien mitt euro. Bl-ispejjes għandhom jithallsu nofs bin-nofs bejn il-partijiet.

Michela Spiteri LL.D
Arbitru