MT

Ġurisprudenza

Dettalji tal-Każ

ID Nazzjonali: 13/2007

Stat Membru: Malta

Isem Komuni: Doris Giordimania VsOxford Mobbli Limited

Tip ta' deċiżjoni: Oħrajn

Data tad-Deċiżjoni: 28/03/2008

Qorti: Qorti ta' l-Appell

Suġġett:

Rikorrent:

Intimat:

Kliem Prinċipali:

Artikoli tad-Direttiva

Consumer Sales and Guarantees Directive, Article 3, 2.

Nota Introduttiva

Judgment concerning the choice of either seeking the rescission of the contract or else a reduction in the price

Fatti

Plaintiff bought a bedroom furniture from defendant company. After a short while defects emerged. Despite two attempts by defendant company to rectify matters the resultant defects remained. Plaintiff subsequently filed a claim before the Consumer Claims Tribunal. Though duly notified with the claim and the date of hearing, defendant company failed to attend for the Tribunal sitting. The Tribunal upheld the claims made by plaintiff and awarded the sum of one thousand fifty Maltese liri (Lm1050) being the sum plaintiff paid when she bought the said furniture. The Tribunal also ordered that the furniture is returned to defendant company once it pays the sums awarded to plaintiff.

Defendant company filed an appeal from the Tribunal's decision before the Court of Appeal, claiming that the Tribunal acted in breach of the principles of natural justice and equity. Defendant company argued that whilst it did fail to attend for the sitting, the Tribunal could not ignore its written pleading whereby it had raised the plea of prescription. Moreover defendant company submitted that the Tribunal acted contrary to substantive justice when it ignored the fact that plaintiff had for some years kept and used the furniture. Defendant company contended that given such circumstances plaintiff was not entitled to ask for replacement of the said furniture or for the rescission of the contract of purchase once plaintiff had failed to act in good time when she noticed that the furniture was not of the quality agreed to.

Kwistjonijiet legali

Deċiżjoni

The Court of Appeal said that the Tribunal had ignored the plea of prescription raised by defendant company. This was in breach of article 21(1) of the Consumer Affairs Act, which requires the Tribunal to decide any issues relating to prescription which may be raised before that Tribunal. The Court therefore annulled the decision of Tribunal.

The Court however on the basis of article 22(2) of the Consumer Affairs Act, choose to hear the case itself given that under that article, the Court of Appeal in annulling a Tribunal decision, is empowered to hear and determine the case itself. The Court first proceeded to consider the plea of prescription. In dismissing this plea the Court said that defendant company failed to produce evidence as to the period from when the period prescription was supposed to have commenced. The Court referred to article 78 of the Consumer Affairs Act, which provides that in cases where there is lack of conformity with the sample or with promised quality of the product being purchased, the period of prescription is considered to be suspended for the duration of the period during which negotiations are in course between the consumer and the trader. The Court noted that defendant company in these circumstances remained passive and did not submit any evidence to counter plaintiff's contentions that the repairs undertaken did not rectify matters and that therefore plaintiff in such circumstances had every right on the basis of article 76 of the Consumer Affairs Act to seek the rescission of the contract and request a full refund of the sum paid for the said furniture. The Court however in its decision decided to deduct two hundred Maltese liri from the original sum claimed given that plaintiff had for time made use of the said furniture ordering that out of the total amount of one thousand and fifty Maltese liri, the amount of eight hundred and fifty Maltese liri be paid to plaintiff.

Test sħiħ: Test sħiħ

Każijiet Relatati

Ebda riżultat disponibbli

Letteratura Legali

Ebda riżultat disponibbli

Riżultat