

## Case Details

### Case Details

National ID	968/1992/2
Stat Membru	Malta
Common Name	Arthur Valletta Vs Cutajar Mario Noe
Decision type	Oħrajn
Decision date	01/02/2008
Qorti	Qorti ta' l-Appell
Suġġett	
Rikorrent	
Intimat	
Kliem Principali	

### Directive Articles

Consumer Sales and Guarantees Directive, [Article 6 , 1.](#)

### Headnote

The consumer has not renounced of his rights conferred to him by a guarantee of the seller.

### Facts

Consumer bought a television set which was covered by a commercial guarantee valid for three years. Under this guarantee the guarantor – being defendant company – undertook to change or repair any part of the set which proved to be defective. Some months after purchase the television started to malfunction with prominent white spots on the television screen. It resulted that certain parts of the television were defective. Consumer immediately contacted defendant company about the shortcomings. Despite trying to repair the set, by also replacing certain parts, the defects remained.

Defendant company contested these claims alleging that factually consumer's claims were unfounded and that the limitation period during which consumer could make his claims had expired. The court of first instance found in favour of consumer ordering defendant company to repair the defective parts within three months under the supervision of technical expert. If defendant company failed to do so then consumer was to undertake the repairs recovering the costs from defendant company. Subsequently defendant company contested the decision of the first court before the Court of Appeal.

### Legal issue

### Deċiżjoni

Defendant company argued that consumer by his actions had renounced to the remedies that he had under the commercial guarantee. The Court disagreed with this line of argumentation, holding that from the evidence it resulted that what the consumer wanted was for the television set to be repaired and to have a clear and good picture, and that at no stage did he renounce to this. The Court further noted that initially defendant company did take the set and made some repairs, but the defects remained and consumer continued to insist for an appropriate remedy which required the replacement of a defective tube. The Court noted that there was no circumstance that indicated that consumer had irrevocably renounced to his rights under the commercial guarantee. Defendant

company had an obligation to rectify the defect in the set, and could not in the circumstances argue that it was not obliged to undertake the required repairs on the basis that consumer had kept the defective set. The Court said that defendant company was bound to comply with any undertakings that it made and to do the required repairs and replacements of the defective parts. The Court therefore confirmed the decision of the first court in favour of the consumer.

Full Text: [Full Text](#)

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#### **Related Cases**

No results available

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#### **Legal Literature**

No results available

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#### **Result**

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