

Case Details

Case Details

National ID	1/2011
Stat Membru	Malta
Common Name	Lorraine Cassar vs Float Glass Limited
Decision type	Oħrajn
Decision date	30/11/2011
Qorti	Qorti ta' l-Appell
Suġġett	
Rikorrent	
Intimat	
Kliem Principali	

Directive Articles

Consumer Sales and Guarantees Directive, [Article 2, 1.](#)

Headnote

Lack of conformity

Facts

Plaintiff filed a claim before the Consumer Claims Tribunal [being the court of first instance asking for damages of €1000 relating to the removal of defective glass and the purchase of new double glazing. Plaintiff a few months after purchase and installation of the glass in question discovered that some of the glass had broken. Following a meeting with a representative of defendant company, the representative had agreed to replace the broken glass without charging plaintiff. Subsequently however the owner of defendant company said that his representative had no authority to agree to a replacement and advised that he was prepared to replace the glass in question provided plaintiff paid for it. Defendant company argued that the glass when sold was in good condition and that his company did not give a guarantee on the breaking of glass once the glass was delivered in good condition. The Consumer Claims Tribunal being the court of first instance decided in favour of plaintiff.

Legal issue

Deċiżjoni

Defendant company contested the decision of the Consumer Claims Tribunal and filed an appeal before the Court of Appeal, arguing that no proof was submitted to justify the Tribunal's decision that the glass was defective given that no expert was engaged to examine the said glass. Court noted that the glass was found to be broken not as a result of any act by plaintiff or of any other person and that the glass in question was purchased on the advice of defendant company as being suitable for the purposes of plaintiff. When some months after purchase and installation of the glass, plaintiff found the glass broken plaintiff had approached defendant company to rectify matters. Court noted that factually defendant company in its reply did not dispute the facts as stated by plaintiff though it argued that it was plaintiff who ultimately chose the glass in question. Court further noted that at one stage a representative of defendant company had agreed to replace the glass in question but that subsequently defendant company did not do so, the court observing in this regard that defendant

company was bound to abide with its initial undertaking by its representative to replace the glass at no cost to the consumer. The court noted that defendant company did not make any comments in this regard. Court further noted that defendant company did not contest the allegation that the glass had a tendency to break if there was a big variation in temperatures. The Court noted that whilst it was true that no technical expert was appointed the Consumer Claims Tribunal was correct in relying on the evidence of plaintiff in this regard once her evidence on this point was not contested. The Court concluded that according to the facts presented before the first court it was evident that the glass provided was not suitable for the purposes of plaintiff and was therefore not according to the agreed quality. The Court consequently rejected the appeal by defendant company and confirmed the decision of the Consumer Claims Tribunal.

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Legal Literature

No results available

Result
