

Principles of Civil Law

Lecture Title: Introduction to the Maltese Civil Law Courts

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Diploma in Law (Malta)



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Civil Courts

1. The Superior Courts
2. The Inferior Courts

Superior Courts – Judge

1. First Hall Civil Court; *Prim Awla tal-Qorti Civili*;
2. Civil Court (Family Jurisdiction); *Qorti Civili (Sezzjoni tal-Familja)*;
3. *Commercial Court*
4. Civil Court (Voluntary Jurisdiction); *Qorti Ċivili (Sezzjoni Ġurisdizzjoni Volontarja)*
5. First Hall Civil Court, Civil Court (Constitutional Jurisdiction); *Prim Awla tal- Qorti Ċivili*



Inferior Courts – Court of Magistrates in their Civil Competence

- Presided by a Magistrate

- Competence

il-Qorti tal-Magistrati (Malta) Magistrat wieħed jippresjedi, u dik il-qorti, bħala qorti tal-ewwel grad tisma' u tiddecidi l-pretensjonijiet kollha sa l-ammont ta' ħmistax-il elf euro (€15,000), kontra persuni li joqogħdu, jew li għandhom ir-residenza tagħhom ordinarja, f'parti tal-Gżira ta' Malta



Then there are several boards and tribunals, for instance:

1. Consumer Claims Tribunal
2. Small Claims Tribunal (maximum of competence is Eur5,000)
3. Land Arbitration Board
4. Administrative Review Tribunal
5. Environment and Planning Review Tribunal
6. Industrial Tribunal
7. Rent Regulation Board

Filing of Acts: Every Court and/or Tribunal has its registry and forms



Possibility of Arbitration

- Malta Arbitration Centre: separate building from the Court

Arbitration by law (Mandatory Arbitration):

1. In the case of Motor Traffic Accident
2. In the case of a Condominium Issue

Or parties have an arbitration clause (Voluntary Arbitration) in a contract/agreement



Not always easy and straightforward which Courts have jurisdiction

1. Pleas raised by the respondent
2. The importance of Case Law

For Instance:

Issue of a Motor Vehicle Accident – Is it always arbitration or can it be an issue of a Civil Court issue?



Seduta tad-29 ta' Jannar, 2014 Talba Numru. 235/2011

GasamMamo Insurance Limited (C3143) hekk kif issurrogata fid-drittijiet tal-assikurat tagħha Claudio Borg (K.I. 745457M) sija bil-polza u sija bil-ligi, u l- istess Claudio Borg Vs Paul Farrugia (K.I. 540483M)

Fis-seduta tas-16 t'Ottubru, 2013, Dott. Albert Zerafa ssollewa l-eccezzjoni tal-inkompetenza ta' dan it-Tribunal stante illi din tirrigwardja hsara maghmula fuq vettura u ghalhekk il-Centru tal-Arbitragg ghandu gurdizzjoni ai termini tar-raba' skeda tal-kapitlu 387 tal-Ligijiet ta' Malta.

Ra il-verbal tal-11 ta' Novembru, 2013 fejn it-talba thalliet ghas-sentenza in parte dwar l-ewwel eccezzjoni.

Din it-talba tirrigwarda danni subiti fuq il-vettura XXX XXX proprjeta' ta' Claudio Borg meta gebel u materjal iehor waqa' fuq il-vettura fi Triq il-Gandofli, San Pawl il-Bahar fis-16 ta' April 2009. Il-vettura kienet assigurata ma' GasamMamo Insurance taht polza fully comprehensive plc. L-asikurazzjoni hallset it-tiswijiet fis-somma ta' tliet elef mitejn u tmienja u tmenin ewro u tmien centezmi (€3288.08) u excess ta' hamsin ewro (€50), ara, u ghalhekk giet surrogata fid-drittijiet ta' Claudio Borg. Il- karozza, Piaggio, bajda bit-targa XXX XXX hija inxurjata full cover. Mhuwiex kontestat li l-incident sar b'mod involuntarju w lanqas li sehhet il-hsara.



Illi il-konvenut biex jissostanza l-eccezzjoni sollevata minnu ccita s-sentenza Carmelo u Sonia Ritchie v Renald Barbara (Tribunal tat-Talbiet iz-Zghar deciza fil- 25 ta' Gunju 2012). Illi is-socjeta' attrici da parti taghha ccitat is-sentenza Atlas Insurance Insurance PCC Limited noe v Roberto Borg et (Tribunal tat-Talbiet iz- Zghar deciza fil-15 ta' Lulju 2013). Illi l-kwistjoni ta' gurizdizzjoni ta' dawn it-tipi ta' kawzi sfortunatament ghad ma gietx rizolta b'mod definittiv. Infatti fil-kawza Atlas Insurance Insurance PCC Limited noe v Roberto Borg et sar studju pjuttost dettaljat tas-sentenzi u divergenzi ta' opinjonijiet.

Illi minnhom tispikka il-kawza Middlesea Insurance plc kif surrogata fid-drittijiet tal-assigurat taghha Av. Dr. Therese Comodini sia bil-polza u sia bil-ligi u l-istess Av. Dr. Therese Comodini v Gevimida Limited (deciza mill-Qorti tal-Appell Sede Infjerjuri fit-23 t'Ottubru, 2009). Il-Qorti tal-Appell ghamlet riferenza ghat-titolu "Tilwimiet dwar it-traffiku tal-vetturi" u ddikjarat illi:

"dan ifisser illi l-incident jew il-hsara in kwistjoni trid tirrizulta minn sinistru stradali cioe minn incident tat- traffiku".

Ghalhekk fil-fehma ta din il-qorti il-ligi kif inhi rettament interpretata ma ssostniex il-pretensjoni tal-appellanti ictu oculi mill-istess intestazzjoni ta sub paragrafu 1.2 il- kontroversja li il-legislatur jirriserva b'mod mandatarju lill- Arbitragg huma dawk li ghandhom rapport kazwali ma incident tat-traffiku li jikkaggunaw dannu materjali fl-istess vetturai jew fi propjeta ta terzi b'effett tat-tamponament f'dik l-istress propjeta mill-vettura jew vetturi ko-involvi f'dak l-istess incident stradali. Il-kaz ta tagrif ta hajt fuq vettura stazzjonarja mingahjr dik il-konessjoni mhijjex wiehed min dawn. Sewwa ghalhekk irraguna it-tribunal illi dak ikkontemplat mill-ligi hija hsara kagonata bl-intervent ta vettura u mhux hsara li tista isehh fuq vettura, hi x'ihl il- fonti taghha

The Court held that the plea of incompetence raised by the Respondent was unfounded, and rejected his plea:

Ghalhekk, fic-cirkostanzi t-Tribunal huwa tal-opinjoni illi kapitlu 387 ma japplikax ghal kaz odjern u li m'hemmx lok li jidhol fl-analizi tal-kategoriji fil-lista tas-subparagrafu 1.2 u specificament 1.2 sub inciz (b) hsara involontarja fil- proprjeta li tinvolvi l-vetturi. Illi fic-cirkostanzi, t-Tribunal ghandu il-kompetenza jisma' u jiddeciedi din it-talba. It- Tribunal ghaldqstant jordna l-prosegwiment tas-smiegh ta' din it-talba.

Today the position therefore is, if the damage is the cause of of a motor vehicle accident – the competence is Arbitration

If the damage is not caused by a motor vehicle accident – the competence of the Civil Court



Appeals

Even here, we follow the same hierarchy:

1. The superior Courts of Appeal – presided by 3 Judges
2. The Inferior Courts of Appeal – presided by 1 Judge

Procedure in Appeal?

Competence of the Appeals follows the same competence of the Courts of First Instance



Link between the Civil Courts and the Criminal Courts

- An offence (a criminal offence) may give rise to a criminal action and a civil action.

1. For instance:

a. A victim of a traffic accident

b. A victim of a homicide (the Heirs have a right for instance to be reimbursed for damages)

Onus of proof is different

- Beyond reasonable doubt

- On a balance of a probability





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