Nru. 18,090
Prezz/Price
Lm0.16 (€0.37)

Gazzetta tal-Gvern ta' Malta
The Malta Government Gazette

It-Tnejn, 18 ta' Ġunju, 2007
Monday, 18th June, 2007

Pubblikata b'Awtorità
Published by Authority

NOTIFIKAZZJONI TAL-GVERN

Nru. 574

AKKWIST TA' ART

DIN id-dikjarazzjoni li ġejja, magħmula mill-President ta' Malta bis-saħħa ta' l-artikolu 3 ta' l-Ordinanza dwar l-Akkwist ta' l-Artijiet għal Skopijiet Pubbliċi (Kapitolu 88) hija pubblikata skond u għall-finijiet ta' l-artikolu 9(1) ta' dik l-Ordinanza.

It-18 ta' Ġunju, 2007

(File No. L 347/2004/I)

DIKJARAZZJONI TAL-PRESIDENT TA' MALTA

Jiena hawnhekk niddikjara illi l-art hawn taħt imsemmija hija meħtieġa mill-awtorità kompetenti għal skop pubbliku skond id-dispożizzjonijiet ta' l-Ordinanza dwar l-akkwist ta' Artijiet għal Skopijiet Pubbliċi (Kap. 88) u illi l-akkwist tagħha għandu jkun b'xiri assolut.

Deskrizzjoni ta' l-Art

L-art li ġejja f'Għajnsielem, Għawdex:

Biċċa art tal-kejl ta' madwar tliet mija u ħamsa u sittin metru kwadru (365m^2), u b'xi strutturi fuqha, li tmiss mix-Xlokk u mil-Lbiċ ma' triq u mit-Tramuntana ma' beni ta' Loreto Spiteri et jew irjieħ verjuri.

GOVERNMENT NOTICE

No. 574

ACQUISITION OF LAND

THE following declaration made by the President of Malta under section 3 of the Land Acquisition (Public Purposes) Ordinance (Chapter 88) is published in terms and for the purposes of section 9(1) thereof.

18th June, 2007

DECLARATION BY THE PRESIDENT OF MALTA

I hereby declare that the undermentioned land is required by the competent authority for a public purpose in terms of the provisions of the Land Acquisition (Public Purposes) Ordinance (Cap. 88) and that the acquisition thereof is to be by absolute purchase.

Description of the Land

The following land at Għajnsielem, Gozo:

A plot of land measuring about three hundred and sixty five square metres (365m^2), with some overlying structures, bounded on the South East and South West by a road and on the North by property of Loreto Spiteri et or more precise boundaries.

L-art hawn fuq imsemmija tidher murija bil-kulur aħmar fuq il-pjanta P.D. Nru. 2007_58 li wieħed jista' jara fuq talba fid-Dipartiment ta' l-Artijiet, Auberge de Baviere, Valletta.

Il-kumpens offrut hu ta' mija u ħamsa u disgħin elf, mija u tmenin Lira Maltija Lm195,180 (€454,647.10) skond l-istima li hawn ma' din id-dikjarazzjoni kif din saret mill-perit arkitett Joseph Mizzi, A.&C.E.

Ma' din id-Dikjarazzjoni qed tiġi ppubblikata *site plan* li turi l-immobbli msemmija.

(Iff) George Hyzler
A/President
12/6/2007

Din is-*site plan* qed tiġi ppubblikata f'paġna 5797.

Stima tal-Perit (oriġinali bil-Malti)

Akkwist ta' Art f'Għajnsielem, Għawdex

Fuq struzzjonijiet tal-Kummissarju ta' l-Artijiet, skond l-Ordinanza dwar l-Akkwist ta' Artijiet (għal Skopijiet Pubbliċi), qiegħed niffissa l-valur liberu u frank tal-propjetà hawn taħt deskritta f'Għajnsielem, Għawdex, li hi meħtieġa mill-Gvern għal skop pubbliku, u dan wara li ħadt in konsiderazzjoni l-lokalità kif ukoll ħwejjeġ oħra li jista' jkollhom x'jaqsmu mal-valur ta' l-istess proprjetà.

Biċċa art tal-kejl ta' madwar tliet mija u ħamsa u sittin metru kwadru (365m^2), u b'xi strutturi fuqha, li tmiss mix-Xlokk u mil-Lbiċ ma' triq u mit-Tramuntana ma' beni ta' Loreto Spiteri et jew irjieħ verjuri, liema art hija meqjusa bħala art fabbrikabbli fit-termini ta' l-Ordinanza dwar l-Akkwist ta' Artijiet u hija murija bl-aħmar fuq il-pjanta P.D. Nru. 2007_58 u hija stmata għall-valur ta'mija u ħamsa u disgħin elf, mija u tmenin Lira Maltija Lm195,180 (€454,647.10).

(Iff.) Perit Joseph Mizzi, A.&C.E.

It-30 ta' Mejju, 2007

The abovementioned land is shown in red on plan P.D. No. 2007_58 which may be seen on demand at the Land Department, Auberge de Baviere, Valletta.

The compensation offered is of one hundred and ninety-five thousand, one hundred and eighty Maltese Liri Lm195,180 (€454,647.10) according to the valuation published with this declaration as made by architect Joseph Mizzi, A.&C.E.

A site plan showing the mentioned immovable property is being published with this declaration

(Sgd) George Hyzler
A/President
12/6/2007

This site plan is being published on page 5797.

Architect's Valuation (original in Maltese)

Acquisition of Land at Għajnsielem, Gozo

I have been instructed by the Commissioner of Land to assess under the Land Acquisition (Public Purposes) Ordinance, the freehold value of the hereunder described property at Ghajnsielem, Gozo, required by Government for a public purpose, and this after considering the locality, as well as other matters relevant ot the same property.

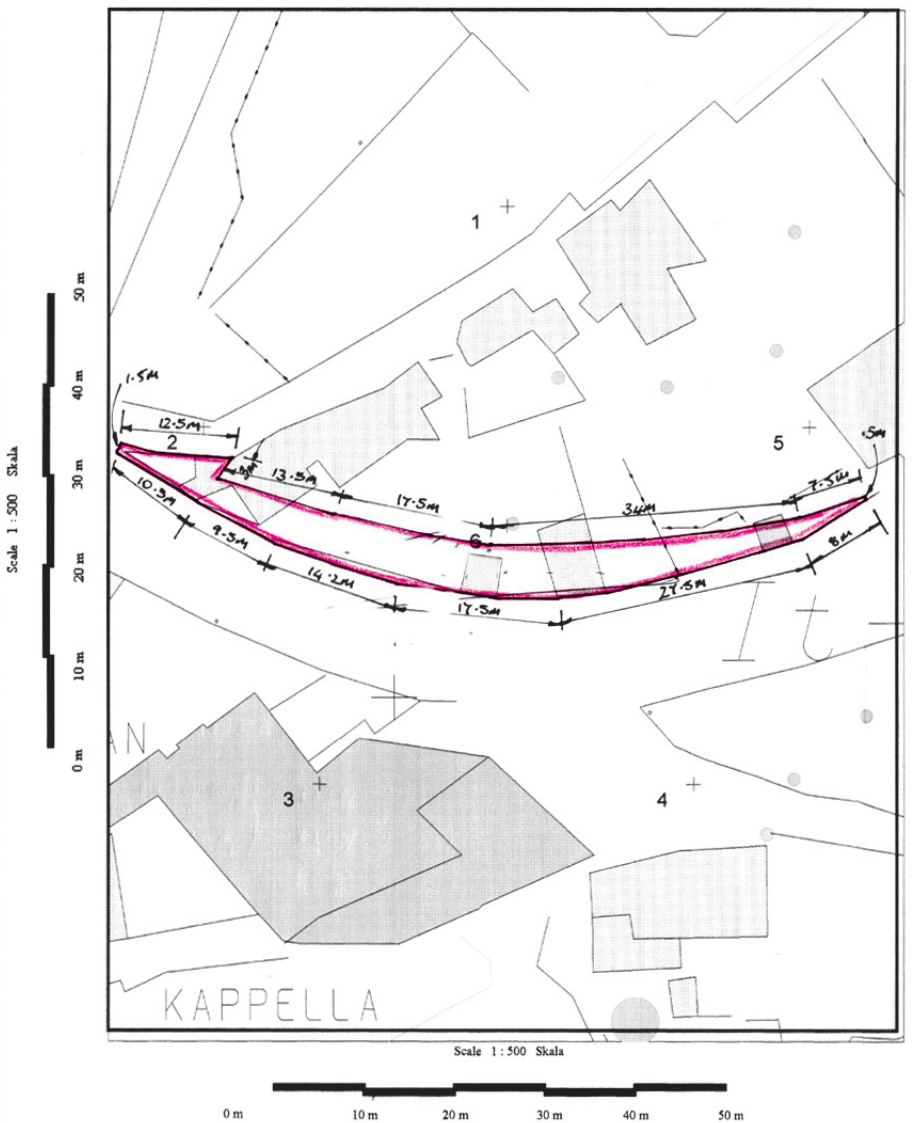
A plot of land measuring about three hundred and sixty five square metres (365m^2), with an overlying structure, bounded on the South East and South West by a road and on the North by property of Loreto Spiteri et or more precise boundaries, which land is considered as a building site in terms of the Land Acquisition (Public Purposes) Ordinance and is shown in red and with number 1 on plan P.D. No. 2007_58 and is valued for the price of one hundred and ninety-five thousand, one hundred and eighty Maltese Liri Lm195,180 (€454,647.10).

(Sgd.) Architect Joseph Mizzi, A.&C.E.

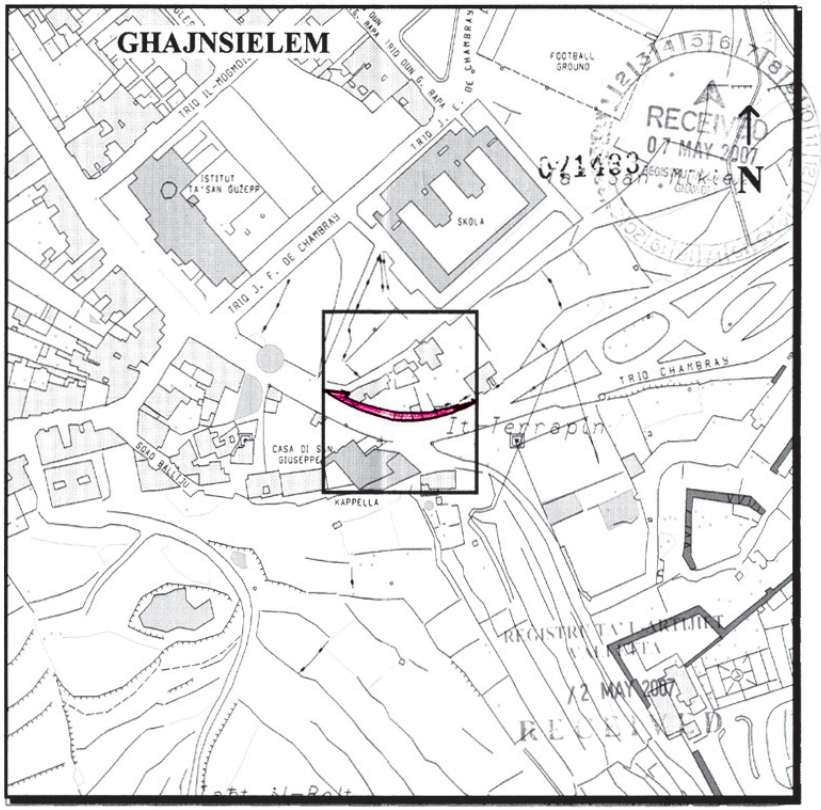
30th May, 2007

Dan hu dokument uffiċċjali għall-użu biss fir-Reġistru tal-Artijiet

This is an official document for Land Registry use only [227 - Divizjoni ta' l-Artijiet tal-Gvern]



NOT TO SCALE
INDICATION OF LOCATION FOR INFORMATION PURPOSES ONLY



Gvern Ta' Malta — Pjanta tas-sit 1:2500 *Site Plan* — Government of Malta

Reġistru ta' l-Artijiet — **Land Registry**

Casa Bolino, 116 Triq il-Punent, Valletta — *Casa Bolino, 116 West Street, Valletta*

Nru tal-Mappa: *Map Number:* 103130M	Pożizzjoni Ċentrali: x = 36012 *Centre Coordinates:* y = 87019	***Parti minn SS:*** *Extracted from SS:*	Data: *Date:* 27/04/2007
Perit *Architect:*		Qies (metri kwadri) *Area (square metres)* Area - 365 m²	
Timbru tal-Perit *Architect's Stamp*	Perit Stefan Scotto Estate Management Department	Firma tal-Applikant *Applicant's signature*	
			Dritt Mħallas *Fee Paid*

AVVIŻI TAL-QORTI – *COURT NOTICES*

883

Ikun jaf kulħadd illi l-Qorti Ċivili (Sezzjoni tal-Familja) permezz ta' digriet mogħti fis-17 ta' Novembru 2006, fl-atti tar-Rikors Nru 293/06 JA, fl-ismijiet Bartolo Donatella vs Ben Salem Abdul Hakim, ordnat is-segwenti pubblikazzjoni biex isservi ta' notifika fil-konfront tal-konvenut, a tenur ta' l-Artikolu 187(3) tal-Kap. 12.

Permezz ta' Rikors ippreżentat fil-Qorti Ċivili (Sezzjoni Familja) fl-ismijiet Donatella Bartolo (ID 517083M) vs Abdul Hakim Ben Salem (ID 26655A), fit-12 ta' Settembru 2006, ir-rikorrenti Donatella Bartolo talbet l-intimat jgħid għaliex għar-raġunijiet premessi, fir-Rikors din l-Onorabbli Qorti ma għandhiex:

1. Tiddikjara u tiddeċiedi li ż-żwieġ ikkuntrattat bejn il-kontendenti fit-13 ta' Ġunju 2003, bir-rit ċivili huwa null u bla effett għall-finijiet u effetti kollha tal-liġi u senjatament għal dak li jipprovdi l-artikolu 19(1) ,9 (d), (f) u kif ukoll taħt l-Artikolu 19A tal-Kap. 255 tal-Liġijiet ta' Malta u tagħti dawk il-provvedimenti kollha l-oħra li jkunu opportuni f'dan ir-rigward.

2. Konsegwentement tiddikjara xolta l-komunjoni ta' l-akkwisti li hemm eżistenti bejn l-kontendenti u dan taħt dawk il-provvedimenti li jidħrilha xierqa.

Bl-ispejjeż kontra l-intimat li huwa minn issa inġunt għas-subizzjoni.

Lista tax-xhieda.

Lista ta' Dokumenti.

Notifika: Dormar Flats, Flat 4,
Triq ix-Xitwa,
San Pawl il-Baħar.

Ir-Rikors Numru 293/2006 JA, fl-ismijiet Bartolo Donatella vs Ben Salem Abdul Hakim, jinsab differit għat-22 ta' Ġunju 2007, fid-9.45 a.m.

Reġistru tal-Qorti Ċivili (Sezzjoni tal-Familja) illum 14 ta' Ġunju 2007.

AVV. DOTT. FRANK PORTELLI, LL.D.
Għar-Registratur, Qrati Ċivili u Tribunali

It is hereby notified that the Civil Court (Family Section) by means of a decree given on the 17th November 2006, in the records of the Application number 293/06 JA, in the names Bartolo Donatella vs Ben Salem Abdul Hakim, ordered the following publication for the purpose of service of the defendant, in terms of Article 187(3) of Cap. 12.

By means of an Application filed in the Civil Court (Family Section) in the names Donatella Bartolo (ID 517083M) vs Abdul Hakim Ben Salem (ID 26655A), on the 12th September 2006, the applicant Donatella Bartolo prayed that the respondent, state why for the reasons premised in the Application this Honourable Court should not:

1. Declare and decide that the marriage contracted between the parties on the 13th June 2003, by civil rite is null and without effect, for all effects and purposes of law and especially as regards that stipulated by article 19(1), 9(d), (f) as well as Article 19A of Cap. 255 of the Laws of Malta and make all the other opportune provisions in this regard.

2. Consequently declare dissolved the community of acquests which exists between the parties and this under those provisions it deems fit.

With costs, against the respondent who is from now summoned so that a reference to his evidence be made.

List of Witnesses.

List of Documents.

Service at: Dormar Flats, Flat 4,
Winter Street,
Saint Paul's Bay.

The Application Number 293/2006 JA, in the names Bartolo Donatella vs Ben Salem Abdul Hakim, has been put off to the 22nd June 2007, at 9.45 a.m.

Registry of the Civil Courts (Family Section) today 14th June 2007.

ADV. DR FRANK PORTELLI,LL.D.
For the Registrar, Civil Courts and Tribunals

884

Ikun jaf kulħadd illi l-Qorti ta' l-Appell permezz ta' digriet mogħti fid-29 ta' Mejju 2007, fir-Rikors bis-segwenti 'Occhio' 'Wara s-sentenza 27 ta' Ġunju 2006, Ċitazzjoni Nru 576/04 TM, fl-ismijiet Marie Borg Vassallo vs Joseph Farrugia, ordnat is-segwenti pubblikazzjoni biex isservi ta' notifika fil-konfront ta' l-appellata, a tenur ta' l-Artikolu 187(3) tal-Kap. 12.

Permezz ta' Rikors ippreżentat fil-Qorti ta' l-Appell 'Wara s-sentenza 27 ta' Ġunju 2006, Ċitazzjoni Nru 576/2006, fl-ismijiet Marie Borg Vassallo vs Joseph Farrugia, fit-12 ta' Lulju 2006, ir-rikorrenti Joseph Farrugia ID 464154(M) espona bir-rispett:

Illi l-attriċi llum appellata Marie Borg Vassallo ppreżentat ċitazzjoni kontra r-rikorrenti, fejn spjegat il-fatt u qalet illi:

L-attriċi hija proprjetarja u għandha pussess tal-fond residenza tagħha li jġib l-indirizz 4, Triq San Ġużepp, Tas-Sliema, liema fond għandu ġnien fuq in-naħa ta' wara u diversi kmamar li għandhom ġnien fuq in-naħa ta' wara u diversi kmamar li għandhom twieqi li jagħtu għall-imsemmi ġnien;

Illi l-konvenut jirrisjedi u għandu pussess tal-fond adjaċenti li jġib l-indirizz 6, Triq San Ġużepp, Tas-Sliema, u li skond l-attriċi m'għandu ebda bitħa retrostanti;

Illi għalhekk l-attriċi talbet lill-Qorti sabiex tiddikjara li l-konvenut ikkommetta spoll fil-konfront ta' l-attriċi meta huwa fetaħ twieqi fuq in-naħa ta' wara tal-fond tiegħu 6, Triq San Ġużepp, Tas-Sliema;

In oltre hija talbet lill-Qorti sabiex fi żmien qasir u perentorju jirripristina d-drittijiet kollha ta' l-attriċi …Omissis…

Illi l-appellant-konvenut eċċepixxa illi t-tieni rekwiżit sabiex tirnexxi l-actio spolii huwa nieqes stante illi ma kien hemm l-ebda disturb tal-pussess la b'mod vjolenti u lanqas b' mod klandestin fil-konfront ta' l-attriċi u dana stante illi ż-żewġt itwieqi li l-konvenut fetaħ, infetħu fuq 'shaft' li jappartjeni lil terzi ……Omissis……

Illi l-Onorabbli Prim'Awla tal-Qorti Ċivili, wara li qrat u semgħet ir-raġunijiet tal-partijiet għaddiet biex tagħti sentenza fuq it-talbiet attriċi kif, miġjuba fiċ-ċitazzjoni, fejn laqgħet l-istess talbiet fl-intier tagħhom.

Illi l-Qorti fis-sentenza ta' nhar il-27 ta' Ġunju 2006, ikkonkludiet illi:

'Kwindi t-tliet elementi meħtieġa biex tirnexxi azzjoni ta' spoll jirriżultaw ippruvati. U 'Għaldaqstant għar-raġunijiet premessi, tiddisponi mill-kawża billi previa li tiċħad l-eċċ ezzjonijiet tal-konvenut, tilqa' it-talbiet attriċi kif dedotti, ……Omissis……

It is hereby notified that the Court of Appeal by means of a decree given, on the 29th May 2007, in the Application with the following 'Heading' 'Following the judgement of the 27th June 2006, Writ of Summons Number 576/04 TM, in the names Marie Borg Vassallo vs Joseph Farrugia, ordered the following publication for the purpose of service of the respondent, in terms of Article 187(3) of Cap. 12.

By means of an Application filed in the Court of Appeal ' Following the judgement of the 27th June 2006, Writ of Summons Number 576/2006, in the names Marie Borg Vassallo vs Joseph Farrugia, on the 12th July 2006, the applicant Joseph Farrugia ID 464154(M) pleaded with respect:

That the plaintiff today respondent Marie Borg Vassallo, filed a Writ of summons, against the respondent whereby she explained the fact and stated:

The plaintiff is the owner and has possession of her residential premises which bears the address, 4, St. Joseph Street, Sliema, which premises has a back garden and various rooms which have a backyard and various rooms which have windows overlying the said garden;

That the defendant resides and has possession of the adjacent premises which bears, the address, 6, St. Joseph Street, Sliema and which according to the plaintiff has no back garden;

That thus the plaintiff asked the Court to declare that the defendant committed a spoliation towards the plaintiff when he opened windows on the back of his premises 6, St. Joseph Street, Sliema;

Furthermore, she asked the Court so that within a short and peremptory period, he restores all the rights of the plaintiff .Omissis.

That the appellant-defendant pleaded that the second requisite so that the action spolii succeed is missing because there was no disturbance of possession, nor violently nor clandestinely, towards the plaintiff and this because the two windows the defendant opened , were opened on a 'shaft' which belongs to third parties …….Omissis……

That the Honourable First Hall of the Civil Court, after heaving read and heard the reasons of the parties, passed on to give judgement regarding the plaintiff's demands, brought in the writ of summons, whereby it upheld the same demands in their entirety.

That the Court in the judgement of the 27th June 2006 concluded that:

'Thus the three elements required for an action of spoiliation to succeed result to have been proved. And 'Thus for the reasons premised dispose of the cause, by, saving the rejection of the pleas of the defendant, upholds, the demands of the plaintiff as brought forward ……Omissis……

L-ispejjeż kollha tal-kawża jithallsu mill-konvenut …….Omissis……

Illi l-konvenut ħass ruħu aggravat minn tali sentenza u għalhekk ippermetta ruħu jippreżenta dan l-umli appell…

…….Omissis……

Illi l-aggravji ta' l-appellant huma ċari u manifesti u jikkonsistu fis-segwenti:

1. Il-Bitħa retrostanti.

Illi l-ewwel Qorti fis-Sentenza tagħha injorat għal kollox il-fatt illi t-twieqi li fil-fatt infetħu jagħtu għal fuq bitħa illi mhix proprjetà ta' l-attriċi.

……Omissis……

Il-fatt illi l-appellant fetaħ it-twieqi għal fuq bitħa ta' terzi hija kkonfermata wkoll mill-perit tekniku nominat mill-Qorti AIC Valerio Schembri ……..Omissis……

Fis-seduta li saret fis 7 ta' Ottubru 2005, il-Perit spjega l-Qorti illi 'mill-pjanta jidher ċar li jekk wieħed iħares mit-tieqa in kwistjoni jekk iħares 'isfel iħares ġo bitħa ta' terzi'.

Għalhekk l-appellant kellu jġib permess għat-twieqi biss mingħand il-proprejtarju tal-bitħa retrostanti …..Omissis……

2. Nuqqas ta' privatezza.

Filwaqt illi l-appellant jirreferi lil din l-Onorabbli Qorti ta' l-Appell, għan-nota ta' sottomissjonijiet finali tiegħu quddiem l-Ewwel Qorti, huwa jirrileva illi f' kawża ta' spoll irid jiġi ddeterminat jekk fil-fatt 'il-ħaġa 'illi fuqha saret l-allegat vjolenza tista' tkun kawża għall-azzjoni ta' spoll ……Omissis……

L-appellant isostni illi n-nuqqas ta' privatezza illi qiegħda tilmenta l-attriċi (u li hija bażi fuq xiex l-ewwel Qorti tibbaża s-sentenza tagħha) ma jistax ikun kawża għall-azzjoni ta' spoll. L-għemil tal-konvenut-appellant ma jistax jiġi interpretat bħala vjolenti jew klandestin għaliex ma kellux għalfejn isaqsi l-permess tal-bini tat-twieqi mingħand l-attriċi għaliex dawn it-twieqi ma jaffaċċawx għal fuq il-bitħa tagħha iżda għal fuq bitħa ta' terzi.

L-appellant jerġa' jagħmel riferenza għas-sentenza tal-Qorti ta' l-Appell Ċivili (Superjuri) fl-ismijiet 'Mazzitelli Julie noe vs Spiteri Charles et' (deċiża fis-27 ta' Frar 2003), fejn il-Qorti spjegat ċarament x'inhuma l-ħwejjeġ illi jistgħu jkunu kawża għall-azzjoni ta' spoll u in oltre qalet illi affarijiet bħat-tgawdija ta' arja u dawl ma jistgħux jiġu ritenuti ħwejjeġ għall-finijiet ta' kawża ta' spoll;…..Omissis……

All the costs of the cause are to be paid be the defendant …….Omissis……

That the defendant felt aggrieved by this judgement and thus permitted himself to file this humble appeal……

…….Omissis……

That the grievances of the appellant are clear and manifest and consist of the following:

1. The Back Garden.

That the Court of First Instance in its judgement ignored altogether the fact that the windows infact were opened and abutted on a yard, which is not the property of the plaintiff.

……Omissis……

The fact that the appellant opened windows on the yard of third parties, is confirmed also by the technical referee appointed by the Court, AIC Valerio Schembri …….Omissis……

During the sitting of the 7th October 2005, the Architect explained, to the Court that ' from the plan it appears clear that if one looks from the window in question if he looks down ' he looks on the yard of third parties'.

Thus the appellant had to obtain permission for the windows only, from the owner of the back yard ….Omissis…

2. Lack of privacy.

Whilst the appellant, refers this Honourable Court of Appeal to his final note of submissions, before the Court of First Instance he points out that in a cause of spoliation it has to be determined whether in fact the thing 'on which the alleged violence was committed, can be a cause of spoliation …..Omissis……

The appellant, upholds that the lack of privacy of which the plaintiff is complaining (and which is the basis on which the Court of First Instance is basing its judgement) cannot be a cause for an action of spoliation. The action of the defendant-appellant, cannot be interpreted as violent or clandestine because he did not need to ask for a building permit for the windows, from the plaintiff, as these windows do not overlook her yard, but the yard, of third parties.

The Appellant refers to the judgement of the Court of Appeal (Superior Jurisdiction) in the names 'Mazzitelli Julie noe vs Spiteri Charles et' (decided on the 27th February 2003), whereby the Court explained clearly, what are the things which can be a cause of spoliation and furthermore started that thing such as the enjoyment of the airspace and light cannot be held things for the purposes of a cause of spoliation;……Omissis……

L-appellant jikkontendi bil-qawwa illi, fi kliem l-ewwel Qorti , 'it-tliet elementi meħtieġa biex tirnexxi azzjoni ta' spoll jirriżultaw ippruvati'. Għar-raġunijiet spejgati hawn fuq l-appellant jaħseb illi huwa nieqes element essenzjali tal-'vis aut clam'. Huwa paċifiku illi dan l-element mhux bilfors jissarraf f'għemil ta' tkissir jew qerda ta' oġġett miżmum mill-attur jew li fih huwa jġarrab xi ħsara fiżika. Huwa biżżejjed għalhekk illi l-għemil spoljattiv isir kontra r-rieda tiegħu jew mingħajr ma jitħallas jintebah bih. Iżda l-appellant tikkontendi illi ma seta' qatt ikun kontra r-rieda jew bil-moħbi ta' l-allegat spoljat, għaliex l-appellant ma kellux bżonn il-permess ta' l-attriċi.

In oltre, l-ewwel Qorti stess tistqarr illi biex tgħaddi għad-deċiżjoni tagħha kella tiddipartixxi mill-azzjoni ta' spoll. 'Il-Qorti tosserva, li f' kull każ, anke jekk wieħed jiddipartixxi mill-azzjoni ta' spoll, dak li għamel il-konvenut huwa kontra l-provediment ta' l-artikolu 443 tal-Kodiċi Ċivili, li jrid li l-ftuħ ta' twieqi għandhom ikunu f' boghod ta' aktar minn żewġ piedi u nofs mill-ħajt diviżorju……Omissis……

Fil-ġurisprudenza nostrana dwar l-azzjoni ta' spoll id-deċiżjonijiet tal-Qrati dejjem jibbażaw ruħhom fuq il-fatt illi' l-azzjoni ta' spoll hija msejsa fuq l-ordni pubbliku u hija maħsuba bħala azzjoni mħaffa u effikaċi biex ma tħalli 'l ħadd li jieħu l-liġi b'idejh u jxekkel stat ta' fatt u biex jekk dan isir, min ikun għamel dan l-att jerġa' jqiegħed kollox minnufih kif kien, qabel kull indaġni oħra' ……Omissis……

L-appellant jgħid illi l-Qorti ma kellhiex għalfejn tindaga fuq id-distanza tat-twieqi mill-ħajt diviżorju u mill-'projection' tal-ħajt diviżorju. Dan għaliex f'kawża ta' spoll, il-Qorti għandha tara biss jekk fil-fatt l-ispoll sar …Omissis..

Għaldaqstant il-konvenut – appellant filwaqt li jirriserva li jressaq dawk il-provi li huma ammissibbli skond il-liġi fl-istadju ta' l-Appell, jitlob bir-rispett lil dina l-Onorabbli Qorti ta' l-Appell, tħassar, tirrevoka u tikkanċella s-sentenza fl-ismijiet 'Marie Borg Vassallo vs Joseph Farrugia' li ġiet deċiża nhar is-27 ta' Ġunju 2006, mill-Prim Awla tal-Qorti Ċivili per. Onor. Imħallef Dr Tonio Mallia u dan billi tiċħad it-talbiet attriċi, hekk kif dedotti u tilqa' l-eċċezzjonijiet kollha tal-konvenuti appellant u dana bl-ispejjeż taż-żewġ istanzi kontra l-istess attriċi-appellata.

Appellata: 4, St. Joseph Street, Sliema.

Reġistru tal-Qrati Superjuri (Appelli) illum 8 ta' Ġunju 2007.

AVV. DOTT. FRANK PORTELLI, LL.D.
Għar-Reġistratur, Qrati Ċivili u Tribunali

The appellant strongly contends, in the words of the Court of First Instance 'the three elements required in order that an action of spoliation succeeds result to be proved'. For the reasons explained above the appellant feels that the essential element 'vis–aut-clam' is missing. It is pacific that this element does not necessarily result in the breaking or destruction of an object held by the plaintiff or by which he suffers any physical harm. It is enough, thus that the act of spoliation be made against his will or without the knowledge of the despoiled, because the appellant did not need the permission of the plaintiff.

Furthermore the Court of First Instance, declares that in order to arrive at its decision, it had to depart from the act of spoliation. 'The Court observes, that in any case, even if one departs, from the action of spoliation, what the defendant did is against the provisions of article 443 of the Civil Code, which requires that the opening of windows are to be at a distance of more that two and a half feet, from the dividing wall …..Omissis……

In our Jurisprudence regarding the action of spoliation the Court decisions, were always based on the fact, that the action of spoliation, is based on pubic order and is intended as a quick and efficacious action, in order not to allow anyone to take the law in his hands and obstruct a state of fact and in order that this be done, the person carrying out this act shall put everything as it was, before any other inquiry ……Omissis……

The appellant, states that the Court did not need to inquire about the distance of the windows from the dividing wall and from the ' projection' of the dividing wall. This because in a cause of spoliation, the Court is to see only whether the spoliation took place ……Omissis……

Thus the defendant-appellant, whilst reserving to bring that proof which is admissible at the Appeal stage, prays with respect that this Honourable Court of Appeal, cancels and revokes, the judgement in the names 'Marie Borg Vassallo vs Joseph Farrugia' which was decided on the 27th June 2006, by the First Hall Civil Court, by the Honourable Mr. Justice Dr. Tonio Mallia, and, this by rejecting the demands of the plaintiff, as brought forward and upholds all the pleas of the appellant defendants and this with costs of both instances against the respondent –plaintiff.

Respondent: 4, St. Joseph Str. Sliema.

Registry of the Superior Courts (Appeals) today 8th June 2007.

ADV. DR. FRANK PORTELLI, LL.D.
For the Registrar, Civil Courts and Tribunals

DIPARTIMENT TA' L-INFORMAZZJONI – 3, PJAZZA KASTILJA – VALLETTA – MALTA
DEPARTMENT OF INFORMATION – 3, CASTILLE PLACE – VALLETTA – MALTA

PUBBLIKAZZJONIJIET UFFIĊJALI
OFFICIAL PUBLICATIONS

Acts of Parliament 2006 on compact disc (CD)	Lm 6.00 (€13.98)
Annual Reports of Government Departments – 2006 on compact disc (CD)	Lm 5.00 (€11.65)
CHOGM & State Visit Highlights in pictures on compact disc (CD)	Lm 3.00 (€6.99)
Code of Ethics and Conduct for Legal Procurators 1998	Lm 1.00 (€2.33)
Code of Ethics for Members of the Judiciary	Lm 1.00 (€2.33)
Creating Inclusive Schools: Guidelines for the Implementation of the NMC Policy on Inclusive Education	Lm 1.80 (€4.19)
Diskors tal-*Budget* 2007	Lm 1.00 (€2.33)
Economic Bulletin – September 2006	Lm 2.00 (€4.66)
Economic Survey 2006	Lm 2.00 (€4.66)
Electoral Register, April 2007	Lm10.40 (€24.23)
Electoral Register, Local Councils, April 2007	Lm40.00 (€93.17)
Estimates 2007	Lm 2.00 (€4.66)
Financial Report 2005	Lm 3.00 (€6.99)
Il-Manwal tal-President tar-Repubblika	Lm 0.50 (€1.16)
Industry Strategy for Malta: 2007-2010	Lm 1.00 (€2.33)
Kodiċi ta' Etika għall-Ġudikanti	Lm 1.00 (€2.33)
Legal Notices and Bye-Laws 2006 on compact disc (CD)	Lm 6.00 (€13.98)
Malta's Parliament – An Official History	Lm18.00 (€41.93)
Mid-Year Report by the Auditor General – Public Accounts 2005	Lm 1.75 (€4.08)
National Curriculum on its Way – Strategic Plan	Lm 1.00 (€2.33)
National Curriculum on its Way – Strategic Plan – Abridged	Lm 0.25 (€0.58)
Performance Audit – ETC's Job Matching Service– Report by the Auditor General	Lm 1.50 (€3.49)
Performance Audit – Inventory Strategy and Distribution of Pharmaceutical Products – Health Division	Lm 1.75 (€4.08)
Performance Audit – Quality of Life for the Elderly at St. Vincent de Paul Residence	Lm 1.50 (€3.49)
Performance Audit – School Information System – Education Division	Lm 2.00 (€4.66)
Performance Audit Report – The Functions of the Tax Compliance Unit	Lm 1.50 (€3.49)
Performance Audit – Reviewing VAT Liability: VAT Investigations and Credit Control Exercises	Lm 1.50 (€3.49)
Portfolio Assessments	Lm 4.00 (€9.32)
Preliminary Master Plan for the Euro Changeover in Malta	no charge
Public Service Management Code (6th Edition – December 2005)	Lm 7.00 (€16.31)
Report of the Auditor General – Public Accounts 2004	Lm 1.50 (€3.49)
Strateġija għall-Industrija ta' Malta: 2007-2010	Lm 1.00 (€2.33)
The Press Act	Lm 0.50 (€1.16)
The Registers of the Medical Council (Malta) 2005	Lm 3.00 (€6.99)
Tifkira fl-Okkażjoni tal-Kanonizzazzjoni ta' Dun Ġorġ – L-aħħar tislima Lulju 1962 (DVD)	Lm 2.00 (€4.66)

Dawn il-Pubblikazzjonijiet jistgħu jinxtraw mid-Dipartiment ta' l-Informazzjoni
3, Pjazza Kastilja, Valletta, Malta

These Publications are obtainable from the Department of Information
3, Castille Place, Valletta, Malta
www.doi.gov.mt
info@gov.mt

L-ammonti bl-ewro huma bbażati fuq ir-rata ta' €1=Lm0.429300 u huma għal użu ta' informazzjoni biss
Values displayed in euro are based on the rate of €1=Lm0.429300 and are for information purposes only

Ippubblikat mid-Dipartiment ta' l-Informazzjoni (doi.gov.mt) — Valletta — *Published by the Department of Information (doi.gov.mt) — Valletta*
Mitbugħ fl-Istamperija tal-Gvern — *Printed at the Government Printing Press*