

SENT. 15689/14
CRON. 4516/14
REP. 14123/14

(Seal of the Republic)
REPUBLIC OF ITALY
IN THE NAME OF THE ITALIAN PEOPLE
THE ORDINARY COURT OF ROME

In the person of the sole judge, Dr. G. Pacilli, of the seventh civil section, has issued the following

SENTENCE

As per art. 281 six C.P.C. in the civil case registered at n. 74294 of the General Rolls of Civil Affairs of the year 2012, discussed and decided with the contemporary reading of the motivation, at the hearing of the 16th July 2014 and pending

BETWEEN

ASSOCIAZIONE “SUPREMO CONSIGLIO 33° ED ULTIMO GRADO DEL RITO SCOZZESE ANTICO ED ACCETTATO PER LA GIURISDIZIONE MASSONICA ITALIANA” (Association “Supreme Council of the 33rd and Last Degree of the Ancient and Accepted Scottish Rite for the Italian Masonic Jurisdiction”), in the person of the legal representative pro temp Luigi Milazzi, domiciled by choice in Rome, Via Aurelia n. 424, at the offices of the lawyer Laura Cioffi, who represents and defends it as per power of attorney in deeds

Plaintiff

BAZZICHILLI ORNELLA, BRUNI ROBERTO, BRUNI ANNA LAURA, as heirs of Fausto Bruni, domiciled by choice in Rome, Via Teodosio Macrobio, n. 3 at the offices of the lawyer Giuseppe Niccolini, who represents and defends them as per power of attorney in deeds

Defendants

AND

CAVALLI MASSIMO, domiciled by choice in Rome, Via Cola di Rienzo, n. 133, at the offices of the lawyer Giulio Sineone, who represents and defends his as per power of attorney in deeds:

Defendant

AND

COCCHI LAURA, as heir of **Cesare Cochi**, domiciled by choice in Rome, Via Savonarola n. 39 at the offices of the lawyer Aldo Montini, who represents and defends her as per power of attorney in deeds

Defendant

AND

BOURLES IRENE: as heir of Cesare Cocchi

Defaulting Defendant

SUBJECT: Claim

CONCLUSIONS: as per the minutes of the hearing of 15th May 2014, which we consider integrally transcribed in this deed:

REASONS FOR THE DECISION IN FACT AND DEED

1. With ritually notified deed of summons, the Association “Rito Scozzese Antico ed Accettato della Libera Muratoria per la Giurisdizione Massonica d’Italia – 1805 (R.S.S.A. – 1805), in the person of its legal representative, lawyer Morace, has sued, in order to obtain the recognition of the property of its founding deed, known as “Bolla di Fondazione”, and the release of the same deed, kept in the safe deposit box n.1015, at the Unicredit Bank, agency of Via G. B. Vico n. 7, in Rome, in the name of Massimo Cavalli and Cesare Cocchi.

Said request has been adhered to by the Association named “Supremo Consiglio del 33° ed ultimo grado del Rito Scozzese Antico ed Accettato per la Giurisdizione Massonica Italiana (R.S.A.A.), having as its legal representative Dr. Luigi Milazzi, which has appeared in Court as an association that was created following the re-unification of the original plaintiff and the Association called “Rito Scozzese Antico ed Accettato della Libera Muratoria per la Giurisdizione Massonica d’Italia – Grande Oriente d’Italia – Palazzo Giustiniani”.

Laura Cocchi, as heir of Cesare Cocchi, and the heirs of Fausto Bruni, while appearing in Court, declared that they had no claim concerning the contents of the safe deposit box in question.

Massimo Cavalli has instead objected that the plaintiff Association had no right to the restitution of the Bull of Foundation, since it was not a derivation of the original Association Rito Scozzese Antico ed Accettato founded in 1805, of which the aforesaid Bull constitutes the founding deed.

2. Firstly the request for the integration into the discussion, of the Association to which Massimo Cavalli belongs, which, according to the latter, claimed rights on the Bull in question.

It must be remembered that it is a consolidated orientation of the Court of Cassation in which the claim action does not automatically generate a case of rejoinder, necessary against eventual third parties who claim or may have an interest in claiming rights on the goods in contrast with the right to property claimed by the plaintiff in judgement, because in this case the only consequence will be that the sentence, being operative only between the parties in the judgement, would not be opposable to third interested parties who were extraneous to the same judgement, since instead it cannot be considered "inutiliter data" (see, ex multis, Cass. sentence 10739/2001).

3. Having said this, the judge notes that the plaintiffs claim should be dismissed.

It is common ground between the parties that the Bull of Foundation, object of the present case, belonged to the Association Rito Scozzese Antico ed Accettato, whose legal representative was Vittorio Colao, who was followed by Fausto Bruni, as also recognized by the Court of Cassation with the sentence n. 6725 of 1988.

The Association, which is the undisputed owner of the Bull in question, was named Rito Scozzese Antico ed Accettato.

This case has been initiated by the Association "Rito Scozzese Antico ed Accettato della Libera Muratoria per la Giurisdizione Massonica d'Italia – 1805".

The difference in the names of the first and the second association mentioned is evident.

Given that the denomination is a distinguishing element of an association, in the case in question, the plaintiff, in front of the explained defences, especially by Massimo Cavalli, has not even offered proof that this difference was the result of a change in the name of the original Association Rito Scozzese Antico ed Accettato or that there was an incorporation of the original Association into that which has acted in the present judgement.

Lacking said proof, it cannot be deemed that the plaintiff Association is a derivation of the original Association owner of the Bull of Foundation, therefore the claim has to be rejected.

4. The cost of the case is entirely compensated between the parties, given the difficulty of the question considered and the complexity of the fact in question, presented as the basis for this judgement.

FOR WHAT MENTIONED ABOVE

finally pronouncing judgement, rejecting every other exception, so provides:

- 1) Rejects the claim of the plaintiff;
- 2) Compensates entirely the expenses of the case among the parties.

Rome 16th July 2014

The Judge
(signed illegible)