

**IN THE CONSUMER AFFAIRS COURT FOR THE NORTH WEST PROVINCE
HELD AT MMABATHO**

Case number: NW013/2017

In the matter between:-

T.G MODISE

PLAINTIFF

And

EYE-CON MANUFACTURING

DEFENDANT

On 05 December 2017

Members: J. Nkomo, P. Hlahane and . Kgomongwe

JUDGMENT

Introduction

1. A consumer is in terms of the applicable laws entitled to receive the goods that are purchased. The delivery of the goods must happen within a reasonable time from the date of purchase. The opposite took place in this case as it will be seen later in this judgement.

Background

2. The plaintiff, Mrs. Gloria Modise concluded a contract of sale with the defendant, Eyecon Manufacturing on 06 June 2016. In terms of the agreement between the parties the defendant would supply and deliver a twin VIP toilet and a cold room for the cost price of R 82 000.00.

3. The amount of R 82 000.00 was paid in different amounts and at different stages. At first the amount of R 70 000.00 was paid on 06 June 2016. The last amount to be paid was the amount of R 12 000.00 that was paid on 02 August 2016.

4. It appears that the delivery of the goods did not take place until such time that the plaintiff decided to lay a complaint against the defendant in the Consumer Affairs Court for investigation. Eventually the defendant was served with summons to appear on 06 October 2017, the date of appearance being 07 November 2017. The summons had typing errors insofar as the amounts are concerned. Instead of reflecting a payment of R 70 000.00 as the complaint suggests it captured it as R 7 000.00. As regards the last payment, it captured it as R 1 200.00 instead of R 12 000.00.

On 06 October 2017

5. On realizing the typing mistakes as mentioned above the Consumer Protector applied for an amendment of the amounts in question. The amendment was granted. The defendant was by agreement with the Consumer Protector granted indulgence to deliver the goods by no later 24 November 2017. The matter was accordingly postponed to 05 December 2017 for proof of compliance.

On 05 December 2017

6. On this occasion the plaintiff appeared and the defendant was not represented. No reasons were given for such absence. It is as a result that the following judgment was given in the absence of the defendant:-

Order:

1. The defendant is ordered to immediately pay the amount of R 82 000.00 to the plaintiff.
2. The defendant is ordered to pay interest on the amount of R 82 000.00 at the prescribed rate per annum from 05 December 2017 to the date of ultimate payment.

3. The defendant shall be liable for the costs of enforcement of this order.

Dated at Mmabatho on this the 6th day of April 2018.

John Nkomo
Chairperson