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**IN THE NATIONAL CONSUMER TRIBUNAL**

**HELD IN CENTURION**

Case Number: **NCT/67822/2016/165(1)(P)NCA**

In the matter between:

**CAREL BAREND JACOBUS DAVIDS**

FIRST APPLICANT

**ID NUMBER: [6...]**

**HEATHER CECELIA DAVIDS**

SECOND APPLICANT

**ID NUMBER:[6...]**

and

**ABSA BANK LTD**

FIRST RESPONDENT

**AFRICAN BANK LIMITED**

SECOND RESPONDENT

**DIRECT AXIS (SA) PTV LTD**

THIRD RESPONDENT

**FINCHOICE (PTV) LTD**

FOURTH RESPONDENT

**FOSCHINIRETAIL GROUP(PTV) LTD**

FIFTH RESPONDENT

**MFC A DIVISION OF NEDBANK LIMITED**

SIXTHRESPONDENT

**NEDBANK LIMITED**

SEVENTH RESPONDENT

**RCS LOAN**

EIGHT RESPONDENT

**SA HOME LOANS (PTV) LTD**

NINTH RESPONDENT

**SANLAM PERSONAL LOANS (PTV) LTD**

TENTH RESPONDENT

**STANDARD BANK OF SOUTH AFRICA LIMITED**

ELEVENTH RESPONDENT

**TOYOTA FINANCIAL SERVICES (SA) LIMITED**

TWELVETH RESPONDENT

Coram:

Ms H Devraj - Presiding member

Adv F Manamela - Member

Ms P Beck - Member

Date of hearing

14 December 2016

## **JUDGEMENT AND REASONS**

### **APPLICANTS**

1. The Applicants are Carel Barend Jacobus Davids, a major male and Heather Cecelia Davids a major female residing in Cape Town (hereinafter referred to as "the Applicants").

### **RESPONDENTS**

2. The Respondents are ASSA Bank Limited, African Bank Limited, Direct Axis (SA) (Pty) Ltd, Direct Axis (SA) Pty Ltd, Finchoice (Pty) Ltd, Foschini Retail Group (Pty) Ltd, The Motor Finance Corporation (MFC), Nedbank Limited, RCS Loan, SA Home Loans (Pty) Ltd, Sanlam Personal Loans (Pty) Ltd, Standard Bank of South Africa Limited, Toyota Financial Services (SA) Ltd (hereinafter referred to as "the Respondents").

## **BACKGROUND**

3. During May 2016, the Applicant lodged an application (through registered debt counsellor Ian Eugene Romer Wason) with the Tribunal in terms of Section 86(8) of the Act to have a debt re-arrangement agreement confirmed as an order of the Tribunal.

4. The debt re-arrangement agreement was confirmed as an order of the Tribunal on 21 September 2016 as per case number NCT/44663/2016/138(1).

5. During October 2016, the Applicant lodged an application with the Tribunal in terms of Section 165(1) of the Act to have the order granted on 21 September 2016 to be varied.

6. The basis of the Application is that the Applicant omitted to include 7 of the credit providers, as part of the debt re-arrangement agreement. However, the acceptance letters were included as part of the initial application.

7. On the date of the hearing there was no appearance by the Applicant or the Respondents.

## **CONSIDERATION OF THE APPLICATION**

8. As stated above there was no appearance by the Applicant or any representative on the date of the hearing.

9. Rule 24 of the National Consumer Tribunal Regulations states the following:

### ***"Non appearance***

*24.(1) If a party to a matter fails to attend or be represented at any hearing or any proceedings, and that party-*

*(a) is the applicant, the presiding member may dismiss the matter by issuing*

*a*

*written ruling; or*

(b) *is not the applicant, the presiding member may-*

*(i) continue with the proceedings in the absence of that party; or*

*(ii) adjourn the hearing to a later date*

*(2) The Presiding member must be satisfied that the party had been properly notified of the date, time and venue of the proceedings, before making any decision in terms of subrule (1)*

*(3) If a matter is dismissed, the Registrar must send a copy of the ruling to the parties. "*

10. The notice of set down was sent to all the parties by the Registrar's office via e-mail on 29 November 2016.

11. At the time the matter was called by the Tribunal panel, there was no appearance by any of the parties.

12. The Presiding member of the Tribunal was satisfied that the parties were properly notified of the date, time and venue for the proceedings.

13. The application was then formally dismissed by the Tribunal on record.

### **ORDER**

14. Accordingly, the Tribunal makes the following order:

14.1 The application lodged in terms of Section 165 of the Act is hereby dismissed.

14.2 The Applicant can refile the application.

DATED ON THIS 22<sup>nd</sup> DAY OF DECEMBER 2016

[signed]

Ms H Devraj Member

Adv F Manamela (Presiding member) and Ms P Beck concurring

Authorised *for issue* by National Consumer Tribunal

Case Number. NCT/67822/2016/165

Date. 2017/01/04

CCYY / MM / DD