

**IN THE NATIONAL CONSUMER TRIBUNAL
HELD IN CENTURION**

Case number: **NCT/290237/2023/75(1)(b)**

In the matter between:

JERRY BRANDER obo TEBOGO TRUST

APPLICANT

And

TD MOTOR MANIA (PTY) LTD t/a INSPECTACAR-GEZINA

RESPONDENT

Coram:

Mr S Hockey - Presiding Tribunal Member

Dr M Peenze - Tribunal Member

Ms Z Ntuli - Tribunal Member

Date of Hearing - 8 April 2024

Date of Judgment - 9 April 2024

JUDGMENT AND REASONS

INTRODUCTION

1. The applicant in this matter is Jerry Brander (the applicant), acting on behalf of the Tebogo Trust, of which he is a trustee. The applicant represented himself at the hearing of this matter on 8 April 2024.

2. The respondent is TD Motor Mania (Pty) Ltd, trading as Inspectacar-Gezina (the respondent), a company duly incorporated in terms of the company laws of South Africa and a supplier as defined in section 1 of the Consumer Protection Act, 2008 (the CPA). At the hearing of this matter, the respondent was represented by Adv MG Mello,

instructed by Mphahlele Thelma Mothakgo Attorneys.

3. This application was referred to the National Consumer Tribunal (the Tribunal) in terms of section 75(1)(b) of the CPA. Leave was granted by the Tribunal to adjudicate this matter as required in the said section.

TERMINOLOGY

4. A reference to a section in this judgment refers to a section of the CPA, and a reference to a rule refers to the Rules of the National Consumer Tribunal¹ (the rules).

BACKGROUND

5. The applicant purchased a Mercedes Benz C200 (the vehicle) from the respondent on 11 June 2021. On taking delivery of the vehicle, the applicant pointed out certain problems with the vehicle. The parties agreed that the vehicle would be returned to the respondent a few days later so that the latter could attend to the problems including the bumper that was not aligned. The problem with the bumper, as well as the sensors thereon, however, was never repaired.

6. Within six months of the purchase of the vehicle, the applicant experienced further problems therewith. Problems with the engine were attended to, but a noise emanating from the steering wheel was not.

7. The parties attempted to settle the matter. The attempted settlement involved a replacement vehicle. However, the applicant was unhappy with the vehicles on offer as replacements as they were not, according to him, of the same class as the vehicle concerned.

THE HEARING

¹ GN 789 of 28 August 2007: Regulations for matters relating to the functions of the Tribunal and Rules for the conduct of matters before the National Consumer Tribunal, 2007 (Government Gazette No. 30225).

8. The applicant instituted these proceedings seeking a refund of the purchase price he paid for the vehicle. During the hearing, however, the applicant indicated that he would be happy if the respondent fixed the problems relating to the vehicle's bumper and the noise emanating from the steering column.

9. The panel members of the Tribunal enquired from counsel for the respondent whether the latter would consider a settlement of the matter on the basis proposed by the applicant. The matter stood down in line with rule 22 to allow the parties the opportunity to discuss and reach a settlement of the matter.

10. When the hearing reconvened, the Tribunal was informed that the parties had reached a settlement. The settlement agreement was recorded in writing and was sent to the panel members of the Tribunal. The parties requested that the settlement agreement be made an order of the Tribunal.

ANALYSIS

11. Rule 20(1) provides that the Tribunal may confirm a resolution or agreement as a consent order on application by the facilitator of that resolution or agreement without hearing any evidence.

12. Rule 20(2) provides that upon receipt of an application for a consent order, the Tribunal may make its ruling on the application based on the documents filed alone without hearing any evidence.

13. The members of the Tribunal are satisfied that the settlement agreement is competent and proper and is not at odds with provisions of the CPA nor with public policy². In its discretion, therefore, the Tribunal is of the view that it is appropriate to grant the order sought by the parties in terms of which the terms of the settlement agreement are recorded as a consent order.

THE ORDER

² See *Eke v Parsons* 2016 (3) SA 37 (CC) at paras 25 and 26

14. Accordingly, the Tribunal makes the following order:

14.1. The settlement agreement concluded between the parties on 8 April 2024, which is annexed hereto marked "X", is confirmed as an order of the Tribunal in terms of rule 20.

14.2. There is no order as to costs.

S Hockey (Presiding Tribunal member)

Tribunal members Dr M Peenze and Ms Z Ntuli concur.