

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

Case number: **NCT/316768/2024/75(1)(b)**

In the matter between:

**ELELWANI BANNY MABATHA**

APPLICANT

And

**RENAULT BRYANSTON MOTORS**

RESPONDENT

Coram:

Adv C Sassman	- Presiding Tribunal member
Ms P Manzi-Ntshingila	- Tribunal member
Dr MC Peenze	- Tribunal member

Date of hearing	- 20 August 2024
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Date of judgment	- 23 August 2024
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<b>JUDGMENT AND REASONS</b>
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**THE PARTIES**

1. The applicant is Elelwani Banny Mabatha (the applicant). The applicant is a consumer, as defined in section 1 of the Consumer Protection Act 68 of 2008 (CPA). At the hearing, the applicant represented himself.
2. The respondent is Renault Bryanston Motors (the respondent), a supplier as defined in section 1 of the CPA. At the hearing, Mr P Jacobs, an attorney and employee of the respondent, represented the respondent.

**TERMINOLOGY**

3. A reference to a section in this judgment refers to a section of the CPA.

## **APPLICATION TYPE**

4. This is an application in terms of section 75(1)(b). In this application, the applicant, with leave granted by the Tribunal, seeks redress against the respondent.
5. The applicant alleges that the respondent misrepresented the price of a vehicle he purchased by charging a higher price than what was discussed.

## **BACKGROUND**

6. On 19 December 2022, the applicant purchased a Volkswagen Polo from the respondent, which Wesbank financed. Leading up to the purchase, the applicant corresponded with the respondent's salesperson via WhatsApp, who indicated that the vehicle he was interested in purchasing was available for R209 000.00. The applicant alleges that when he collected the vehicle, he signed an offer to purchase, and a copy of the credit agreement was sent to him later. Upon receipt of the credit agreement, he noticed that the vehicle cost was R229 000.00 and that further extra costs had been added, which he was unaware of. He queried the new figure with the respondent and was advised that the additional costs included a service plan and other extras sold with the vehicle. The applicant further alleges that the engine and vehicle identification numbers on the signed offer to purchase do not correspond with the vehicle details on the credit agreement. On this basis, the applicant seeks an order to cancel the agreement and return the vehicle to the respondent.
7. The respondent has opposed the application and submits that the CPA does not provide for the relief the applicant seeks since there is no allegation of the vehicle being defective. Therefore, the case is without merit and should be dismissed.

## **THE APPLICANT'S SUBMISSIONS**

8. The applicant submitted that the respondent's Finance and Insurance manager explained the vehicle's purchasing process to him. He was informed that interest would be added to the vehicle's price and that a 30% balloon payment would be payable at the end of the repayment period. However, he was told that the service plan was included for free, and according to his calculations, the balloon payment should amount to approximately R60 000.00 and not the R80 326.05 reflected on the credit agreement.
9. When he realised the vehicle was more expensive than he initially thought, he enquired about returning the vehicle to the respondent. In his attempts to return the vehicle, and

cancel the credit agreement, he was sent between the credit provider and the respondent without success. At one point, the respondent advised him that he could return the vehicle, which he did. The vehicle was with the respondent for three weeks, and then he was contacted to collect it due to a lack of storage space. Thereafter, the applicant sought assistance from the Motor Industry Ombudsman of South Africa and then the National Consumer Commission.

10. The applicant submitted that he signed an offer to purchase but does not recall signing a credit agreement. Instead, he received a text message with a one-time PIN requiring him to confirm certain information. Due to the discrepancy in the vehicle's engine and identification numbers displayed on the documents, he is unsure if he took delivery of the correct vehicle. The vehicle in question has since been repossessed, causing financial prejudice to the applicant, and he is seeking an order to cancel the credit agreement.

## **THE RESPONDENT'S SUBMISSIONS**

11. The respondent submitted that the vehicle's purchase price was R229 900.00. This was the base price, exclusive of dealer costs and additional fees and products purchased. The principal debt is higher than the base price because the applicant purchased additional products as part of the sale. The applicant experienced an affordability issue regarding the cost of insurance on the vehicle, not the affordability of the vehicle instalment, which he agreed to. The high insurance premium led to the attempted return of the vehicle.
12. The discrepancy in the vehicle's engine and identification numbers appearing on the offer to purchase was a bona fide administrative error. The credit agreement and delivery note display the correct details of the vehicle sold to the applicant.
13. The applicant is seeking a cancellation of the agreement, and return of the vehicle, but such a remedy is only available to him under the CPA if the vehicle is defective. There is no allegation that the vehicle is defective, so the application must fail.

## **CONSIDERATION OF THE EVIDENCE**

14. In his application, the applicant states that he was told that the vehicle was available at a cost of R209 000.00. However, the signed documents contained in the case record show that the initial vehicle sale price was R199 913.04, excluding VAT. When including

VAT at 15%, the vehicle's base price without any extras was R229 900.00 as indicated by the respondent.

15. At the hearing, the applicant conceded to accepting and signing the offer to purchase and being aware that the grand total for the sale of the vehicle was displayed on it as R243 347.82<sup>1</sup>. This amount was comprised of the following:

vehicle sale price	R199 913.04
licence and registration fee	R1 050.00
2-year / 30 000 km service plan	R7 030.71
handling fee	R550.00
delivery fee	R3 200.00
VAT charged on sale price and extras	R31 604.06

16. The quotation and credit agreement, signed by the applicant, then included a credit initiation fee of R1 207.50 and a further cost of R7 315.00 for a “Bumper2Bumper” insurance product sold to the applicant by the credit provider<sup>2</sup>. This increased the principal debt for the sale of the vehicle on credit to R251 870.32.
17. From the evidence before the Tribunal, it appears that the applicant’s qualm is not with the base price of the vehicle but the principal debt, which includes extras, insurance products, additional fees, a balloon payment and VAT. The principal debt and total cost of credit for purchasing the vehicle are elements contained in the applicant’s credit agreement with the credit provider. However, the applicant has not referred his complaint to the National Credit Regulator for investigation, nor has he included the credit provider as a respondent in his application. The Tribunal is seized only with the documentary evidence and oral arguments of the two cited parties, and no allegations have been made against the credit provider concerning the applicant’s understanding of the risks, costs, and obligations of entering into the credit agreement.
18. The Tribunal is persuaded that the applicant freely and voluntarily signed an offer to purchase, tax invoice, quotation, and credit agreement, which displayed the vehicle’s base price, cost of additional products, fees, balloon payment, VAT and principal debt.

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<sup>1</sup> See page 31 of the case record.

<sup>2</sup> See pages 124 – 125 of the case record.

19. The evidence further indicates that the engine and vehicle identification numbers correspond on all documents other than the offer to purchase. The Tribunal is convinced that this was merely a bona fide administrative error on the part of the respondent and was not the result of any intentional misrepresentation.
20. Furthermore, the Tribunal cannot grant the relief that the applicant seeks since there is no allegation of the vehicle being defective, warranting a return under section 56(2)(b). Nor has the applicant alleged or proven that the vehicle was not fit for the purpose intended, warranting a return under section 20(2).

## **CONCLUSION**

21. By the applicant's own version, the costs associated with the purchase of the vehicle were explained to him by the respondent's Finance and Insurance manager. The applicant freely and voluntarily signed documentation to that effect. The applicant has not made a case of any prohibited conduct against the respondent, and therefore, the application is without merit and must be dismissed.
22. Although the Tribunal did not find any prohibited conduct on the part of the respondent in this instance, it notes its concern with the applicant's confusion in transacting with the respondent. The CPA aims to improve consumer awareness and information provided to consumers to enable them to make informed choices. This case emphasises the importance of suppliers to ensure that consumers are fully informed of the transaction they are concluding. Failure to do so can have serious financial repercussions for consumers.

## **ORDER**

23. Accordingly, the Tribunal makes the following order:

23.1 The application is dismissed; and

23.2 There is no cost order.

Adv C Sassman

Presiding Tribunal member

Tribunal members Ms P Manzi-Ntshingila and Dr MC Peenze concur.

Authorised for issue by The National Consumer Tribunal

National Consumer Tribunal

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