

SOUTH AFRICA / JUDGMENT

Dauids and Another v Absa Bank Ltd and Others (NCT/67822/2016/165(1)(P)NCA) [2016] ZANCT 61 (22 December 2016)

[2016] ZANCT 61

COURT

National Consumer Tribunal

BEFORE

H Devraj, F Manamela, P Beck

CASE / FILE NUMBER

NCT/67822/2016/165(1)(P)NCA

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SAFLII

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Policy

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
DAVID SECOND
APPLICANT
ID
NUMBER: [6...]
and
ABSA

BANK
LTD FIRST
RESPONDENT
AFRICAN
BANK
LIMITED SECOND
RESPONDENT
DIRECT
AXIS (SA) PTY
LTD THIRD
RESPONDENT
FINCHOICE
(PTY)
LTD
FOURTH RESPONDENT
FOSCHINI
RETAIL GROUP(PTY)
LTD
FIFTH RESPONDENT
MFC
A DIVISION OF NEDBANK
LIMITED SIXTH
RESPONDENT
NEDBANK
LIMITED SEVENTH
RESPONDENT
RCS
LOAN
EIGHT RESPONDENT
SA
HOME LOANS (PTY)
LTD
NINTH RESPONDENT
SANLAM
PERSONAL LOANS (PTY) 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 ABSA Bank Limited, African Bank Limited, Direct Axis (SA) (Pty) Ltd, Direct Axis (SA) Ply Ltd, Finchoice (Pty) Ltd, Foschini Retail Group (Pty) Ltd, The Motor Finance Corporation (MFC), Nedbank Limited, RCS Loan, SA Home Loans (Ply) Ltd, Sanlam Personal Loans (Ply) 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:

"Nonappearance

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 22nd DAY OF DECEMBER 2016

[signed]

Ms H Devraj

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

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ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZANCT/2016/61.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/davids-and-another-v-absa-unknown-topic-anct-2016>

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