

SOUTH AFRICA / JUDGMENT

Legodi v Absa Bank Limited and Others (NCT/65442/2016/165(1)(P)NCA) [2017] ZANCT 53 (4 January 2017)

[2017] ZANCT 53

COURT

National Consumer Tribunal

BEFORE

H Devraj, F Manamela, P Beck

CASE / FILE NUMBER

NCT/65442/2016/165(1)(P)NCA

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Policy

IN

THE NATIONAL CONSUMER TRIBUNAL

HELD

IN CENTURION

Case

Number: NCT/65442/2016/165(1)(P)NCA

In

the matter between:

MOSATHO
MESHACK
LEGODI FIRST
APPLICANT
ID
NUMBER: [7...]
and
ABSA
BANK LTD
FIRST
RESPONDENT
AFRICAN
BANK
LIMITED

SECOND RESPONDENT
DIRECT
AXIS (SA) PTY
LTD THIRD
RESPONDENT
NEDBANK
LIMITED
FOURTH RESPONDENT
OLD
MUTUAL FINANCE (PTY) LTD
FIFTH RESPONDENT
RCS
GENERAL
PURPOSECARD SIXTH
RESPONDENT
RCS
LOAN
SEVENTH RESPONDENT
WESBANK,
A DIVISION OF FIRSTRAND BANK
LTD
EIGHTH 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 Applicant is Mosatho Mashack Legodi, a major male residing in Kempton Park (hereinafter referred to as "the Applicants").

RESPONDENTS

2. The Respondents are ABSA Bank Limited, African Bank Limited, Direct Axis (SA) (Pty) Ltd, Nedbank Limited, Old Mutual Finance (Pty) Ltd, RCS General Purpose Card, RCS Loan, Wesbank a Division of Firstrand Bank Ltd (hereinafter referred to as "the Respondents").

BACKGROUND

3. During June 2016, the Applicant lodged an application (through registered debt counsellor Benay Sager) 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 23 September 2016 as per case number NCT/49785/2016/138(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 23 September 2016 to be varied.
6. The basis of the Application is that the Applicant omitted to include 2 of the credit providers, namely Direct Axis (SA) (Pty) Ltd and ABSA Bank Limited as part of the debt re-arrangement agreement.
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 28 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 Member

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

Authorised for issue by National Consumer Tribunal

Case Number: NCT/65442/2016/165

Date: 2017/01/04

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