

SOUTH AFRICA / JUDGMENT

National Credit Regulator v Sizanani Cash Loans (Pty) Ltd (NCT/223359/2022/57(1))

[2025] ZANCT 18 (4 April 2025)

[2025] ZANCT 18

COURT

National Consumer Tribunal

BEFORE

C Sassman, S Hockey, P Manzi-Ntshingila

CASE / FILE NUMBER

NCT/223359/2022/57(1)

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IN THE NATIONAL CONSUMER TRIBUNAL

HELD IN CENTURION

Case Number: NCT/223359/2022/57(1)

In the matter between: NATIONAL CREDIT REGULATOR APPLICANT and SIZANANI CASH
LOANS (PTY) LTD RESPONDENT

Coram:

Adv C Sassman

- Presiding Tribunal member

Mr S Hockey

- Tribunal member

Ms P Manzi-Ntshingila - Tribunal member

Date of hearing:

- 4 April 2025

Date of order:

- 4 April 2025

CONSENT ORDER

THE PARTIES

1. The applicant is the National Credit Regulator (the applicant), an organ of the state and a juristic person established in terms of section 12 of the National Credit Act 34 of 2005 (the NCA) to regulate the consumer credit market and ensure compliance with the NCA.
2. At the hearing, the applicant was represented by Adv Moosa Vardalia, a legal advisor employed by the applicant.
3. The respondent is Sizanani Cash Loans (Pty) Ltd (the respondent). The respondent is a registered credit provider with registration number NCRCP7327.
4. At the hearing, the respondent was represented by Mr Alan Jacobs, an attorney at Alan Jacobs and Associates.
5. Collectively, the applicant and the respondent are referred to as “the parties”.

TERMINOLOGY

6. A reference to a section in this order refers to a section of the NCA.

APPLICATION TYPE

7. This is an application in terms of section 138(1)(b), whereby the applicant and the respondent have concluded a settlement agreement, and the applicant seeks to have the agreement, and its terms confirmed as a consent order.

BACKGROUND

8. The applicant received a complaint from Summit Financial Partners on behalf of a consumer, Mr Phaledi Nkogatse. In respect of the complaint, the consumer and Summit alleged that the respondent contravened the NCA by extending credit to consumers who were already under debt review and charged fees in contravention of sections 100, 101, and 103. The complaint raised a reasonable suspicion that the respondent was conducting its business in contravention of certain provisions of the NCA.
9. On 17 February 2021, the applicant authorised an investigation into the respondent’s business practices in terms of section 139(1)(c). On the same day, the applicant appointed an inspector to investigate the respondent. In compliance with COVID-19 regulations, the investigation was conducted remotely and on 18 March 2021, a virtual interview was held with the respondent’s owner and director, Velile Assegai. The applicant’s investigation concluded that the respondent was operating its business in a manner which contravened certain provisions of the NCA.
10. On 31 March 2022, the applicant filed an application with the Tribunal in terms of section 57(1) seeking the cancellation of the respondent’s registration as a credit provider and an order confirming that the respondent had engaged in prohibited conduct, and other further relief. Over the next few years, the parties made several attempts to settle the matter, and on 27 March 2025, concluded a settlement agreement. In terms of the agreement, the

respondent confirmed that it had contravened certain provisions of the NCA and that its conduct amounts to prohibited conduct. The respondent agreed to take steps to ensure that it complies with the NCA going forward and further agreed to pay an administrative fine.

11. Although the parties concluded a settlement agreement, the matter remained on the Tribunal's hearing roll, and the panel convened to hear submissions from the parties' representatives. Both parties confirmed that they concluded a settlement agreement and wanted it confirmed as a consent order in terms of section 138(1)(b).

CONSIDERATION

12. Section 138(1)(b) must be read with section 150, which empowers the Tribunal to make an appropriate order relating to prohibited or required conduct, and subsection (d) includes confirming a "consent agreement" as an order of the Tribunal.
13. When parties enter into a settlement agreement, they bind themselves contractually to fulfil the terms of that agreement,[1] and when that agreement is made an order of the Tribunal, the terms become an enforceable order. Section 160(1) states that a person who contravenes or fails to comply with an order of the Tribunal commits an offence.
14. The NCA does not compel the Tribunal to grant a consent order simply because the parties have concluded a settlement agreement. Section 138(1) states that the Tribunal "may" confirm the agreement as a consent order. A starting point is for the Tribunal to satisfy itself that the parties agree that the terms of their settlement agreement be made part of the consent order.[2]
15. In *Eke v Parsons*,[3] the Constitutional Court held that a court must not be mechanical in its adoption of the terms of a settlement agreement, nor is it obligated to accept anything agreed to by the parties and make it an order. The order can only be granted if it is "competent and proper". This means that the agreement must relate to an issue or litigation between the parties, and the terms of the agreement must be capable of being included in the order, both from a legal and practical point of view. The terms of the agreement must also not be at odds with public policy and must hold some practical and legitimate advantage. Therefore, the Tribunal has a wide discretion in this regard, which must be exercised judicially and in line with the purposes of the NCA.
16. In this instance, the Tribunal is satisfied that the parties agreed that the terms of their settlement agreement should be confirmed as a consent order. The settlement agreement relates to the respondent's failure to comply with certain provisions of the NCA, and the terms of the agreement are capable of being confirmed as a consent order, both from a legal and practical point of view. Furthermore, the terms of the agreement are not contrary to public policy. They are legitimately advantageous to the parties as

it will prevent further litigation between them. Therefore, granting the applicant's request will result in a competent and proper order.

17. At the hearing, the parties' attention was drawn to the incorrect reference number stated in the settlement agreement for use to pay the administrative fine. Both parties agreed to the Tribunal confirming which reference number the respondent should use for this purpose. Accordingly, the Tribunal will direct which reference number the respondent should use.

CONCLUSION

18. The Tribunal is persuaded that it is appropriate to grant the order sought and confirm the settlement agreement and its terms as a consent order.

ORDER

19. Accordingly, the Tribunal makes the following order:

19.1 The settlement agreement concluded by the parties on 27 March 2025, which is annexed to this consent order as "Annexure A to NCR v Sizanani Cash Loans (Pty) Ltd – NCT-223359-2022-57(1)", is confirmed and made an order of the Tribunal in terms of section 138(1)(b);

19.2 The respondent is ordered to use the following reference number when making payments to the National Revenue Fund:

Reference: NCT/223359/2022/57(1) and the name of the person or business making the payment; and

19.3 There is no cost order.

(signed)

Adv C Sassman

Presiding Tribunal member

Tribunal members Mr S Hockey and Ms P Manzi-Ntshingila concur.

[1] Van Zyl v Van Zyl (2020/31538) [2022] ZAGPJHC 649 (14 September 2022), at para 14.

[2] Ex parte Le Grange and Another; Le Grange v Le Grange (984/2011) [2013] ZAECGHC 75; [2013] 4 All SA 41 (ECG); 2013 (6) SA 28 (ECG) (1 August 2013), at para 15.

[3] (CCT214/14) [2015] ZACC 30; 2015 (11) BCLR 1319 (CC); 2016 (3) SA 37 (CC) (29 September 2015), at para 25 - 26.

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