

SOUTH AFRICA / JUDGMENT

Nedbank Limited v Van der Walt and Others (NCT/71084/2016/165(1)(P)NCA) [2017] ZANCT 67 (12 May 2017)

[2017] ZANCT 67

COURT

National Consumer Tribunal

BEFORE

J Simpson, F Manamela, H Devraj

CASE / FILE NUMBER

NCT/71084/2016/165(1)(P)NCA

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IN THE NATIONAL CONSUMER TRIBUNAL

HELD IN CENTURION

Case Number: NCT/71084/2016/165(1)(P)NCA

In the matter between:

NEDBANK LIMITED

APPLICANT

And

TWANETTE VAN DER WALT

DEBT COUNSELLOR

NCRDC2223

ANDRE PIERIE RETIEF

FIRST CONSUMER

ID NO: [5...]

JUDA RETIEF

SECOND CONSUMER

ID NO: [6...]

FNB A DIVISION OF FIRST RAND BANK LIMITED

FIRST RESPONDENT

WONGA FINANCE

SECOND RESPONDENT

Coram:

Adv. J. Simpson – Presiding member

Adv F Manamela – Member

Ms. H Devraj – Member

Date of hearing – 04 May 2017

JUDGEMENT AND

REASONS

APPLICANT

1. The Applicant is Nedbank Ltd, a registered credit provider in accordance with the National Credit Act 34 of 2005 (“the Act”) (the “Applicant”).

RESPONDENTS

2. The Respondents are all registered with the National Credit Regulator as credit providers (hereinafter referred to as “the Respondents”).

BACKGROUND

3. On 2 June 2016 the debt re-arrangement agreement between the Consumers, the Applicant and the Respondents was confirmed as an order of the Tribunal as per case number NCT/21972/2015/138(1)P.
4. During December 2016 the Applicants lodged an application with the Tribunal in terms of Section 165(1) of the Act to have the order varied.
5. The basis of the Application is that the order made does not provide for the variable interest rate applicable to the loan and does not state that the 60 month repayment period was a concession term only and the normal contractual terms and conditions would revert once the concession term expires.
6. The notice of complete filing was issued by the Registrar on 19 December

2016. The notice of set down was issued by the Registrar on 10 April 2017.

7. On the date of the hearing there was no appearance by the Applicants, the Consumers or the Respondents.

DISMISSAL OF APPLICATION

8. As stated above there was no appearance by either of the Applicants or any representative on the date of the hearing.

9. Rule 24 of the National Consumer Tribunal Regulations states the following:

“Non appearance

- (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) Is a matter is dismissed, the Registrar must send a copy of the ruling to the parties.”
10. The Presiding member of the Tribunal was satisfied that the parties were properly notified of the date, time and venue for the proceedings.
11. The application was then formally dismissed by the Tribunal on record.

ORDER

Accordingly, the Tribunal confirms the following order issued at the hearing:

12. The application lodged in terms of Section 165 of the Act is hereby dismissed.
13. No order as to costs

DATED ON THIS 12TH DAY OF MAY 2017

[signed]

Adv J Simpson

Presiding Member

Adv F Manamela (member) and Ms. H Devraj (member) concurring

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