

**IN THE CONSUMER COURT FOR THE PROVINCE OF LIMPOPO
HELD AT POLOKWANE**

Case Number: LCC15/09/23

In the matter between:

Mathagu Mamidza Seth

Applicant

And

Vhukhopfu Agri Good Solution

Respondent

Reg no.: 2022/565073/07



JUDGMENT

- (1) The Applicant is **Mathagu Mamidza Seth**, an adult male resident of Limpopo Province.
- (2) The Respondent is **Vhukhopfu Agri Food Solution**, a corporate entity incorporated in terms of the laws of the Republic. The Respondent is in the business of providing various agricultural products and equipment to its client.
- (3) The Applicant is represented by **Ms Pheeha T** (Office of the Consumer Protector).
- (4) The Applicant had approached the Consumer Court for an order in the following terms:
 - 4.1 Directing the Respondent to refund the Applicant an amount of R14 000.00

4.2 Interest at a prescribed rate.

- (5) The Respondent did not attend court proceedings despite being so summoned and notified.

BRIEF BACKGROUND OF FACTS

- (6) On or around August 2022 the Applicant approached the Respondent with a view to purchase a maize thresher and Hummer Mill.
- (7) The Respondent confirmed that the products was available in stock, this resulted in the conclusion of an oral sale agreement.
- (8) The Applicant then proceeded to enter into a lay-by agreement, in terms of which agreement he was to pay an amount of **R7 500.00** for the Maize Thresher and **R14 000.00** for the Hummer Mill.
- (9) In honouring the terms of the agreement, the Applicant paid the amount of **R1000.00** as an initial deposit. Later amounts of **R10 000.00** were paid by the Applicant in **two different instalments**.
- (10) **A total of R21 000.00 was paid by the Applicant to the Respondent.**
- (11) The agreement was to the effect that the Respondent was to deliver both the maize thresher and the Hummer Mill to the Applicant's nominated address.
- (12) **The Respondent did manage to deliver the Maize Trasher in line with the terms of the agreement.**
- (13) However, the Respondent has repeatedly failed to honor another part of the agreement, being the delivery of the purchased Hummer Meal, this despite repeated calls and enquiries by the Applicant.
- (14) The Respondent was asked by the Applicant to refund the R14 000.00 being the amount for the Hummer Meal that was not delivered. This was not done.
- (15) The Respondent adopted a strategy to ignore calls from the Applicant.

ANALYSIS OF THE EVIDENCE




- (16) By not honouring the summons to appear before this court, the Respondent has relinquished an opportunity to put forward its version.
- (17) The court notes that several attempts have been made to get some cooperation from the Respondent, these attempts were ignored by the Respondent.
- (18) It is clear that the Respondent has unduly enriched itself at the expense and detriment of the Applicant.
- (19) Several documentary evidence, including invoices and payment receipt were presented in support of the Applicant's case.
- (20) In addition, an investigator's report and a confirmatory affidavit were presented in support of the Applicant's case.

CONCLUSIONS

- (21) The evidence presented on behalf of the Applicant is neither disputed nor contradicted.
- (22) There is a vivid chain of evidence that points to the fact that the Respondent practiced an unfair business practice by failing to deliver the goods which were bought and fully paid for.
- (23) The Applicant is thus entitled to relief sought out in the Notice of Motion.

In circumstances, the following order is made:

- (a) THE APPLICATION IS UPHELD**
- (b) The Respondent is ordered to refund the Applicant an amount of R14 000.00**
- (c) The Respondent is ordered to pay interest on the above amount at a prescribed rate from the date of this order.**

Adv Ramashia RT,	Presiding.	
Adv Monobe TE,	Concurring.	

14 DEC 2023



Mabiletsa M,	Concurring.
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End.

DEPARTMENT OF ECONOMIC
DEVELOPMENT, ENVIRONMENT & TOURISM
LIMPOPO CONSUMER COURT

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