



## **SUMMARY OF JUDGMENT: NCC VS SPARES FOR AFRICA**

**NCT/266654/2023/73(2)**

**NATURE OF THE MATTER:** In this matter, the applicant (NCC) received a complaint from the complainant, who alleged that he agreed to purchase a 2017 Ford Focus engine from the respondent for R25,092.50, which included installation. He paid a R5,000 deposit with the balance to be paid after testing the vehicle post-installation. The vehicle was taken to a third party for engine installation, and there were additional parts required.

However, the engine installation took nine months to complete but eventually, the engine was fitted, thereafter, while test-driving the vehicle, the complainant discovered that the engine installed was a Ford Fiesta engine and was not a Ford Focus engine as ordered. Despite this, the respondent refused to replace the engine, and the vehicle remained in their possession. The complainant asked for the supplier to return his vehicle in its original condition and a refund of the deposit, however, this request was not accepted by the respondent.

The respondent denied any wrongdoing, claiming the engine installed was compatible with multiple models and that the installation did not negatively impact the vehicle's performance. They also argued that the complainant's claims about the incorrect engine were based on hearsay. The Tribunal found that the respondent's conduct of installing an incorrect engine and the refusal to return the complainant's vehicle unless extra charges were paid was in contravention of the CPA.

**APPLICABLE SECTION of the CPA:** Section 47(2)(a) and (b) and section 54(1)(a) , (b),(c), and ( d) of the CPA.

**RULING:** The respondent was ordered to refund the sum of R5 000.00, to return the vehicle to the complainant in the condition it was when it was made available, and to pay an administration fine in the amount of R75 000.00

**IMPACT:** The impact of this case between the National Consumer Commission (NCC) and Spares for Africa CC is significant for both consumers and businesses, as it reinforces key principles of the Consumer Protection Act (CPA). The Tribunal's ruling emphasizes the following points:

- a) **Consumer Protection Enforcement:** The case highlights the role of the NCC and the Tribunal in protecting consumers' rights under the CPA. It demonstrates that businesses can be held accountable for failing to meet contractual obligations, such as providing the correct product (in this case, the correct engine), and for poor service delivery (such as delays and failure to resolve issues).
- b) **Business Accountability:** The decision shows that businesses must adhere to the terms agreed with consumers, including delivering the right product and providing services as promised. If businesses fail to meet these obligations, they can face penalties, including the return of goods, refunds, and fines. The case stresses that consumers are entitled to receive the goods and services they paid for, and businesses cannot impose additional charges or withhold products.
- c) **Financial Penalties:** The Tribunal imposed an administrative fine of R75,000, which serves as a deterrent to other businesses that may attempt to bypass the CPA's consumer protections. This fine indicates that non-compliance with the CPA can lead to significant financial consequences for businesses.
- d) **Consumer Rights and Remedies:** The case reinforces the rights of consumers to seek redress for defective goods or services, including the return of their property (the vehicle), the refund of deposits, and compensation for any harm caused by the business's actions. In this case, Mr. Nkuna's right to a refund and the return of his vehicle in good condition was upheld.
- e) **Legal Precedent:** The case serves as a precedent in terms of how businesses must act in line with the CPA, particularly regarding the provision of accurate information, proper performance of contracts, and transparency in billing for

additional services and parts. Future cases could draw from this decision when businesses are found to contravene similar provisions of the CPA.

In summary, the impact of this case is a stronger enforcement of consumer rights, a warning to businesses about the importance of adhering to the CPA, and the setting of a legal precedent for future consumer protection cases.

{THE END}