National Consumer Commission v Flawless Cars (Pty) Ltd

Case No: NCT/450844/2026/100(6)(a) (National Consumer Tribunal, Centurion)

Date of Judgment: 14 September 2026

1. Summary of the Judgment

1.1. The National Consumer Commission (NCC) received a complaint from a consumer, Ms Ntsako Matjokana, who purchased a used Ford Fiesta from Flawless Cars (Pty) Ltd (the respondent) for R170 000.00 on 12 December 2015. The vehicle presented with defects and was returned for repairs on 8 January 2016. It remained in the respondent's possession until 24 February 2016, and again until 16 March 2016, but the mechanical problems persisted. The consumer obtained an independent diagnosis from Lazarus Ford Centurion, which quoted R94 087.17 for repairs, including an engine replacement. In June 2016, the consumer requested cancellation of the sale agreement, but the respondent ignored the request and collected the vehicle for further repairs. The vehicle was never returned to the consumer. In September 2025, the vehicle was tracked and found in the respondent's possession, stripped for parts (which the respondent denied).

1.2. On 15 August 2025, the NCC issued a compliance notice in terms of section 100(1) of the CPA, stating that the respondent had contravened sections 48(2)(a) and (b), 49(1)(a) and (b) read with sections 49(2) and (4), 55(2), and 56(2) of the CPA. The respondent was instructed to refund the consumer R170 000.00 within 14 days.

1.3. The respondent failed to comply with the notice, and on 18 May 2026, the NCC filed an application with the Tribunal in terms of section 100(6)(a) for an administrative fine. The respondent did not object to the notice in terms of section 101(1). At the hearing, the respondent did not dispute that it had failed to comply with the notice. It argued that it had sought legal advice, made a settlement offer after the application was filed (which was rejected), and that a fine not exceeding R50 000 would be appropriate.

1.4. The Tribunal found that the respondent had elected not to comply with the notice, provided no valid reason for non-compliance, and appeared to have no intention of complying in future. The Tribunal considered the factors in section 112(3) of the CPA and imposed an administrative fine of R100 000.00. The Tribunal held that the NCC plays a pivotal role in enforcing compliance with the CPA, and that failure to comply with a section 100(1) notice must be viewed in a serious light. The Tribunal also confirmed that it is not empowered to award costs in matters referred to it by the NCC, as section 147(2)(a) of the NCA only permits cost orders in complaints referred under section 75(1)(b) of the CPA or section 141(1)(b) of the NCA.

2. Impact of this Case

This case reinforces the binding nature of compliance notices issued by the NCC under section 100(1) of the CPA. Key effects include:

2.1. Compliance notices are not optional: A supplier's failure to comply with a compliance notice, without valid reason, will attract an administrative fine. The Tribunal will not condone disregard for the regulator.

2.2. Failure to comply is an aggravating factor: Even where there is no evidence of previous contraventions of the CPA, the mere fact of non-compliance with the notice is an aggravating factor justifying a substantial fine.

2.3. Time-barred complaints do not extinguish regulatory enforcement: Although the consumer's complaint was time-barred from being referred to the Tribunal for adjudication, the NCC was still entitled to issue a compliance notice under section 100(1), and non-compliance with that notice is independently sanctionable.

2.4. No costs in NCC referrals: The Tribunal confirmed that it lacks the power to award costs in matters referred to it by the NCC, as the NCC acts in the public interest in pursuing its statutory obligations to enforce consumer rights.

2.5. Administrative fines are punitive: The R100 000 fine signals that the Tribunal will impose meaningful penalties to deter non-compliance and protect consumer rights.