KIA East Rand (Pty) Ltd v National Consumer Commission & Others

Case No: A183630/25 (High Court of South Africa, Gauteng Division, Pretoria)

Date of Judgment: 7 September 2026

1. Summary of the Judgment

1.1. The appellant, Kia East Rand (Pty) Ltd, sold a used 2015 Audi A3 1.8T FSI with 116 393 km on the odometer to the fourth respondent (the consumer) for R245 075.00 on 9 September 2022. Approximately five weeks later, the vehicle overheated, and on 27 October 2022, the low oil pressure warning light illuminated intermittently. The appellant effected repairs on multiple occasions on 22 October 2022, 27 October 2022, and again in January 2023 but the engine oil pressure warning light continued to illuminate. The appellant declined Audi East Rand's request to conduct further diagnostic testing, citing costs, and instead moved the vehicle to Rotary Turbo Tech for completion of the repairs. In late January 2023, the vehicle was returned to the consumer.

1.2. Approximately one week later, the consumer reported a "knocking sound" and excessive smoking. The appellant alleged that the consumer's brother, Given, had overfilled the engine with 2 litres of oil, causing engine damage. On 14 February 2023, the consumer cancelled the purchase agreement and demanded a refund under the Consumer Protection Act 68 of 2008 (CPA). The appellant refused, and the consumer lodged a complaint with MIOSA, and subsequently with the National Consumer Commission (NCC), which referred the matter to the National Consumer Tribunal (the Tribunal).

1.3. The Tribunal found that the appellant had contravened section 56(3) of the CPA and ordered it to refund the purchase price of R245 075.00 and pay an administrative fine of R50 000. The appellant appealed to the High Court against both the contravention finding and the sanction.

1.4. The High Court dismissed the appeal with costs. The Court held that the jurisdictional requirements of section 56(3) had been established: within three months after the initial repairs, the original defect (the illuminating engine oil pressure warning light) persisted despite three repair attempts. The overfilling of engine oil by Given was rendered a moot point because the consumer's right to a refund had already arisen prior to that incident. The Court further found that the administrative fine of R50 000 was not shockingly inappropriate, having regard to the factors in section 112(3) of the CPA, including the appellant's cooperation but also its failure to facilitate expeditious resolution and the consumer's ongoing prejudice.

2. Impact of this Case

This case reinforces that section 56(3) of the CPA is mandatory and imposes a strict statutory obligation on suppliers. Key effects include:

2.1. Strict application of section 56(3): Once a supplier repairs goods and, within three months, the original failure, defect or unsafe feature remains unremedied, or a further failure, defect or unsafe feature is discovered, the supplier must replace the goods or refund the purchase price. The supplier is not entitled to continue repairing.

2.2. Irrelevance of subsequent consumer conduct: The Court confirmed that once the consumer's right to a refund under section 56(3) has arisen, subsequent events such as the alleged overfilling of engine oil by a third party do not extinguish that right.

2.3. **No requirement to prove material imperfection:** The Court upheld the Tribunal's finding that section 53(1)(a)(i) (material imperfection in manufacture) was not applicable, but that the persistent defect nonetheless rendered the vehicle less suitable for its purpose and not of good quality.

2.4. **Administrative fines will be upheld:** The High Court confirmed that a R50 000 fine for a first-time offender who cooperated with the NCC was not disproportionate, sending a warning that non-compliance with CPA obligations will attract meaningful penalties.