

IN THE KWAZULU-NATAL CONSUMER TRIBUNAL

HELD IN KING CETSHWAYO DISTRICT

CASE NUMBER: KZNCT 05/2025

In the matter between:

KWAZULU-NATAL CONSUMER PROTECTOR

FIRST PLAINTIFF

JUNE SWANEPOEL

SECOND PLAINTIFF

and

MURUGAN GROUP (PTY)LTD t/a DTM AUTO

FIRST DEFENDANT

THEOPHLUIS MURUGAN

SECOND DEFENDANT

SHAUN MURUGAN

THIRD DEFENDANT

Coram

Prof. B. Dumisa Chairperson and Presiding Member

Ms P. Dabdeen Member

Ms N .Hedder Member

Date of Hearing 25 June 2025

Date of Judgement 9 JULY 2025

SETTLEMENT ORDER

PLAINTIFFS

FIRST PLAINTIFF

1. The First Plaintiff in this matter is the OFFICE OF THE KWAZULU-NATAL CONSUMER PROTECTOR, established in terms of Section 5 of the KwaZulu-Natl Consumer Protector Act

04 of 2013 (“the Act”), with its head offices at 270 Jabu Ndlovu Street, Pietermaritzburg, KwaZulu-Natal.

2. The Office of the KwaZulu-Natal Consumer Protector falls under the Department of Economic Development, Tourism and Environmental Affairs (EDTEA), in the Province of KwaZulu-Natal.
3. At the hearing, the First Plaintiff was represented by Mr. Ryan Moodley, a Deputy Director in the Office of the KwaZulu-Natal Consumer Protector.
4. The First Plaintiff’s Investigation Report was compiled and deposed to by Vanessa Shabangu, an official in the Office of the KwaZulu-Natal Consumer Protector.

SECOND PLAINTIFF

5. The Consumer, who is the Second Plaintiff in this matter is Mrs JUNE SWANEPOEL, a major female who resides in Mtubatuba, KwaZulu-Natal (hereinafter referred to as “the Second Plaintiff”).
6. The Second Plaintiff lodged her complaint against the Defendants on 17 February 2025.
7. At the Hearing, the Second Plaintiff represented herself.

DEFENDANTS

8. The First Defendant is Murugan Group (Pty) Ltd, Registration number: 2017/326904/07, a company incorporated in accordance with the laws of the Republic of South Africa, carrying on business at No.29 Cooper Corner, Alton, Richards Bay, KwaZulu-Natal.
9. The Second Defendant is THEOPHUIS MURUGAN, the co-director of the First Defendant, residing at in ., Richards Bay, KwaZulu-Natal.
10. The Third Defendant is SHAUN MURUGAN, a co-director of the First Defendant, residing in Richards Bay, KwaZulu-Natal.
11. The First, Second and Third Defendants were represented by Advocate Subashnee Gounden.

BACKGROUND

12. The Second Plaintiff is the owner of motor-vehicle described as the C 200 Mercedes Benz ,
Registration number: NUR 63990, 2011 model.
 - 12.1 On or about 18 August 2022, the Second Plaintiff approached the Defendants for a diagnostic test and quotation after she discovered some noise emanating from the vehicle.
 - 12.2 The Defendants conducted the diagnostic test and informed the Second Plaintiff that the whole kit required repairs and that the repair work would cost R15 000.00 (Fifteen Thousand Rand).
 - 12.3 The Second Plaintiff paid the amount of R15 000.00 into the banking of the First Defendant.
 - 12.4 The Third Defendant later informed the Second Plaintiff about further parts that needed to be replaced and upon instruction of the Third Defendant, the Second Plaintiff made further payments of R3 500.00 (Three Thousand Five Hundred) and a further R7 845.00 (Seven Thousand Eight Hundred Forty Five Rand) when she was informed that the motor-vehicle had been repaired and was scheduled to be delivered.
 - 12.5 The Second Plaintiff was later informed that the vehicle could not be delivered as it had broken down enroute to her house.
 - 12.6 The vehicle had to be towed back to the First Defendant and the Second Plaintiff was responsible for the towing costs.
 - 12.7 Subsequent to that, the Second Plaintiff was informed that further repair work had to take place and she had to make a further deposit of R15 000.00 (Fifteen Thousand Rand) which she paid to the First Defendant.
 - 12.8 Whilst the car was in possession of the Defendants, the Second Plaintiff was informed that the engine of the vehicle had been stolen.

- 12.9 After the passage of time and around June 2023, the Second Plaintiff referred the matter to the Retail Motor Industry Organisation (RMI) and when the Defendants failed to comply, the matter was later referred to the Motor Industry Ombud of South Africa (MIOSA).
- 12.10 Both the Retail Motor Industry Organisation (RMI) and the Motor Industry Ombud of South Africa (MIOSA) recommended that the Defendants must repair the vehicle and replace the stolen engine at their own cost.
- 12.11 The Defendants failed to comply with the recommendations made by RMI and MIOSA.
- 12.12 Eventually, the Second Plaintiff referred a dispute to the KwaZulu-Natal Consumer Protector.

APPLICATION TYPE AND ORDER SOUGHT:

13. The Tribunal derives the jurisdiction for hearing this matter under Section 10 and Section 21 of the Act 4 of 2013. This matter is heard in terms of Section 19 and Section 47 (3) of the Consumer Protection Act, 66 of 2008 (the CPA).
14. The Second Plaintiff sought an order against the First, Second and Third Defendants in the following terms:
- 14.1 The Defendants conduct is declared prohibited conduct and in contravention of Section 4, Section 54(1)(a) and (b) and Section 55 of the Consumer Protection Act 68 of 2008.
- 14.2 The Defendants act jointly and severally act to recover the stolen engine and or replace the same model, make and size of the engine at their expense.

- 14.3 The Defendants to repair the vehicle to a good working condition within a reasonable time frame determined by the Consumer Tribunal.
- 14.4 Furthermore, the Defendants, jointly and severally must bear all repair costs associated to the repair of the vehicle and provide a statutory warranty on the engine parts and repair work.
- 14.5 An order directing the Defendants to pay an administrative penalty and or making any other appropriate order under Section 4(2)(b)(ii) of the CPA.
- 14.6 Further and / or Alternative relief.

EFFORTS TO RESOLVE THE COMPLAINT

15. The First Plaintiff attempted, without any success, to resolve the issues between the Parties.
16. When the mediation failed, the First Plaintiff issued summons on 12 May 2025.
17. The Defendants were duly served with the summons on 15 May 2025.
18. The Defendants did not file their notice of intention to defend until the 23rd June 2025. The notice of intention to defend was out of time.

THE HEARING

19. The matter was set down for hearing on the 25 June 2025.
20. At the hearing, the First Plaintiff informed the Chairperson of KwaZulu-Natal Consumer Tribunal that the Parties intended to settle the matter and requested that the Settlement agreement be made an order of the KwaZulu-Natal Consumer Tribunal.

21. Notwithstanding the fact that the parties reached settlement in the matter, The Tribunal records that when the Defendants refused to implement the recommendations of both RMI and MIOSA, their behaviour was deliberately calculated to frustrate or defeat the purposes of the CPA namely the realization of consumer rights .This was a contravention of Section 4(5)(a) of the CPA.
- 22 The Tribunal places on record that whilst it will confirm the parties Settlement Agreement as a Settlement Order of the Tribunal because the parties have agreed, it is unfortunate that the Tribunal will not be able to appropriately deal with the wide ranging gross breaches of the CPA by the Defendants .The Tribunal has no intention of usurping the parties right to settle .

THE ORDER

- 23 The Settlement Agreement, "Annexure A" dated 25 June 2025, signed by all the Parties under case number: KZNCT 05/2025, is hereby made an order of the KwaZulu-Natal Consumer Tribunal.
- 24 The Second and Third Defendants are confirmed as Surety and Co Principal Debtor on this Settlement agreement

DATED AT DURBAN ON THIS 07TH DAY OF JULY 2025.



MS N HEDDER

Member

Prof. B Dumisa (Chairperson and Presiding Member) and Ms P. Dabideen (Member) concurred.