REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, JOHANNESBURG)

Case no: 20/39957

REPORTABLE: YES/ NO
OF INTEREST TO OTHER JUDGES:YES/NO
REVISED.
14/02/2022

In the matter between:

NNESE MEDICALS (PTY) **Applicant**
Registration No. 2018 / 577534 /07

And
DE RM MOTORS (PROPRERTY LIMITED)
Registration No. 2020 / 112071 /07 **Respondent**

JUDGMENT:
NNESE MEDICALS (PTY) LIMITED v DE RM MOTORS (PTY) LIMITED

NGCONGO AJ:

INTRODUCTION

1 This matter concerns the crisp question of whether the applicant is entitled to cancel an agreement of sale and purchase of a motor vehicle between itself and the respondent.

2 When the application was initially launched in November 2020, the primary relief sought by the applicant was an order for specific performance. The special performance sought was to compel the respondent to furnish the applicant with the necessary documentation to effect transfer of the vehicle described as a 2016 Ford Ranger 3.2 4x4 Auto with license number [....] ("**the Ford Ranger**") to the applicant. However, by the time the application was heard, the applicant informed the Court that it is no longer pursuing the primary relief. Instead, the applicant seeks an order that confirms the cancellation of the agreement and that the parties be placed in the position they were prior to the conclusion of the contract.

3 This abandonment is not unsurprising, especially in light of the applicant's previous communication to the respondent of its election to cancel the agreement. It is generally noted that an election to either affirm or cancel a contract, once made, is final.[1] Thus, the only relief that remains for consideration in this matter, is confirmation of the cancellation of the agreement and an order for restitution.

Relevant facts

4 This case arises as follows.

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[1] See the rationale of Hoexter JA in *Chamber of Mines of SA v National Union of Mineworkers* 1987 (1) SA 668 (A) at 690 for this general proposition, where it was held:

> "*One or other of two parties between some legal relationship subsists is sometimes faced with two alternative and entirely inconsistent courses of action or remedies. The principle that in this situation the law will not allow that party to blow hot and cold is a fundamental one of general application."*

However, it is important, too, to note the qualification of this general statement, as noted by Hoexter JA in reference to Bower's *Estoppel by Representation* (1923) at para 244 which states that "[*a] man may change his mind as often as he pleases, so long as no injustice is thereby done to another*." In the current matter, therefore, as the respondent had not relied (to its detriment) on the applicant's letter of cancellation of 17 November 2020, it is arguable that the applicant was entitled to pursue an order of specific performance, despite having elected to cancel the agreement and communicating such election to the respondent in unequivocal terms. This point is, however, purely academic in the current matter as the applicant has abandoned the claim for specific performance.

5 In October 2020, the parties concluded an oral agreement for the sale and purchase of the Ford Ranger for an amount of R266 000.00.

6 The applicant took possession of the Ford Ranger on 13 October 2020. After taking possession, the applicant states that it established that various repairs and services needed to be done on the Ford Ranger and arranged for these to be done. These services and repairs came to an amount of approximately.

7 As is customary when purchasing a motor vehicle, the applicant sought the Ford Ranger's documentation for the purpose of registering the vehicle in its name and effecting transfer of ownership.

8 The applicant was informed, however, that the Ford Ranger was new stock to the respondent, which is a second-hand motor vehicle dealership, and that the vehicle registration papers for the Ford Ranger were not ready. The respondent informed Mr Matsetela, the director of the applicant, that the Ford Ranger's registration documents would to be ready for collection within one week from the 13 October 2020.

9 However, after a period of a week, the respondent relayed to the applicant that the supplier of the Ford Ranger, Mr Isiaka, had informed the respondent that there would be a delay in obtaining the vehicle registration documents. It was, however, only in mid-November that Mr Isiaka further informed the respondent of a pending criminal case concerning the Ford Ranger, which he had opened in September, after he had discovered that the Ford Ranger's documentation had been cloned.

10 Shortly after that, on or about 17 November 2020, the applicant's attorneys notified the respondent in writing of their cancellation of the agreement, on the basis that the applicant had, despite numerous demands, still not been furnished with the registration documents of the Ford Ranger necessary to effect transfer. The cancellation letter demanded that the purchase price be repaid, along with the cost of repairs and improvements that the applicant had made to the vehicle.

11 Despite the cancellation letter, the respondent sought to continue with the agreement and informed the applicant on 23 November 2020 that the reason for the delay was the COVID-19 pandemic and the resultant regulations and restrictions which impacted the operations of the Department of Transport. Despite these difficulties, the respondent assured the applicant that the collection of the registration documents was expected to take place on 4 December 2020.

12 This letter, however, crossed paths with the institution of this application, which was issued on the same day and served on the respondent a few days later on 26 November 2020. At that point, the applicant repeated what had been said in its cancellation letter: that it was unable to use the Ford Ranger because it had not been provided with the registration documents.

13 In an interesting turn of events, shortly before the hearing of this application, some ten months after transfer of the Ford Ranger, on 17 August 2021, the respondent eventually furnished the relevant documentation to the applicant.

What are the issues for determination?

14 In the circumstances, there are two main issues for decision, namely:[2]

14.1 the applicant's preliminary point of non-joinder, insofar that point is still alive; and

14.2 whether the applicant is entitled to cancel the agreement in consequence of the alleged breach on the part of the respondent.

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[2] In its answering affidavit, the respondent also alleged, as a further preliminary point, that the applicant had failed to comply with the Practice Directive. This point was not ultimately pursued by the respondent – save in relation to a debate about the appropriate scale for costs. It is accordingly unnecessary to consider it further.

Non-joinder

15 For reasons which follow, I am of the view that, in consequence of the applicant no longer pursuing the primary relief of specific performance, the non-joinder point is no longer engaged.

16 The essence of the respondent's non-joinder point was that Mr Isiaka and the Department of Licensing, Langlaagte, ought to have been joined in this application. The basis for this contention was as follows. Under the primary relief, the applicant sought an order compelling the respondent to furnish the applicant with the necessary documentation to enable the applicant to effect transfer of the Ford Ranger to its name. The respondent would be unable to do this without Mr Isiaka and the Department of Licensing, Langlaagte, and these persons therefore had a direct and substantial interest in any order which this court might make in these proceedings concerning that primary relief. The alternative point was made that such an order could not be sustained or carried into effect without prejudicing those persons.

17 On the papers, the respondent additionally asserts that Mr Isiaka ought to be joined in the event that the Court confirms the cancellation of the contract. It appears from the reasoning adopted in this argument that the respondent paid the purchase price over to Mr Isiaka and that an order for cancellation and restitution would therefore require Mr Isiaka to repay the respondent such amount before the respondent was able to repay the applicant. This aspect of the non-joinder, however, was not pursued in argument where, as stated above, the respondent sought a joinder of the Department and Mr Isiaka *only* if special performance was sought. This was the correct approach, in my view.

18 In any event, on the argument pursued by the respondent, the viability of the non-joinder was contingent upon the applicant's seeking of the primary relief. Since that relief is no longer sought, this point falls by the wayside. It is accordingly not necessary to decide it.

19 I turn now to the cancellation controversy.

The parties' arguments regarding the cancellation of the agreement

20 The applicant's case on this score is conceptually simple: the applicant says that the respondent bore a legal obligation to furnish the applicant, within reasonable time, with the necessary documentation to enable the applicant to effect transfer of the Ford Ranger to its name. This did not occur – at least, not until very late in the day – and thus the respondent breached the agreement.

21 As I have it, this gives rise to two questions. First, did the applicant have a legal basis on which to seek cancellation; namely, was there a breach? Second, if the answer to the first question is yes, whether the facts of this matter warrant the applicant being granted the relief it seeks.

22 As regards the question of the legal basis for the cancellation, the applicant relied heavily on *Springfield Omnibus*.[3] In that case, the applicant sought an order that its agreement with the first respondent be cancelled, and that its payment of the purchase price of a bus be refunded against the return of the vehicle. The reason was that the first respondent had failed to do all things necessary for the registration of transfer of ownership of the bus into the name of the applicant.

23 As in the present matter, the applicant in *Springfield Omnibus* contended that it was the duty of the first respondent to do all things necessary for the registration of transfer of ownership of the bus into the name of the applicant and that the first respondent had failed to do so. In consequence, so the argument ran, the first respondent's omission constituted a material breach of the agreement which entitled the applicant to cancel the sale.

24 The court in *Springfield Omnibus* upheld the grounds of cancellation relied upon by the applicant for cancellation of the contract. In particular, and at pages 5 to 6, the court found as follows:

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[3] *Springfield Omnibus Service Durban CC v Peter Maskell Auction CC & another* [2006] JOL 16436 (N). This, in fact, was the sole authority invoked by the applicant on this point.

> "All that is required of an auctioneer is to ensure that delivery of the vehicle is passed to the purchaser once payment has been effected as well as to provide the purchaser with all documents as are necessary which would enable the purchaser to effect registration of transfer of ownership into his or her name. There is no doubt on the papers before me that the applicant made numerous requests to the first respondent to furnish the original certificate of registration as well written confirmation from the second respondent consenting to the registration of the bus in the applicant's name. These requests however fell on deaf ears." (*Emphasis added*)

25 Kruger J went on to hold that the fact that the papers were subsequently tendered did not change the fact that there had been a breach. This is stated at page 6 as follows:

> "It is noted that the first respondent, by way of affidavit dated 2 March 2005, has now tendered the original documents to enable the applicant to effect registration of transfer of ownership into its name. However, this tender is far too late. The applicant was, in my opinion, accordingly entitled to cancel the contract which it duly did by letter dated 28 June 2004." (*Emphasis added*).

26 Likewise, the present applicant says that fact that the respondent defaulted on its obligation to deliver the vehicle registration documents (within a reasonable time) is enough to entitle it to cancel the agreement between the parties. In oral argument, the applicant's counsel pressed the fact in the present case the respondent took some ten months to furnish the relevant. This, in circumstances where there were extensive efforts by the applicant during that period to obtain those papers and where, as I have indicated, the applicant cancelled the agreement by way of a letter dated 17 November 2020. This was in accordance with the principle in our law that an innocent party rescinds a contract by communicating that to the guilty party.[4]

27 The applicant also made much of the fact that, at the time of the conclusion of the contract, it was not apprised of the proper state of affairs. In this regard, it says

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4 *Datacolor International (Pty) Ltd v Intamarket (Pty) Ltd* 2001 (2) SA 284 (SCA) at para 28.

that it concluded the agreement under the misapprehension that the respondent was the owner of the Ford Ranger (this proved not to be so) and without knowing that the Ford Ranger would subsequently be (or was already) embroiled in investigations concerning whether its registration documents had been cloned.

28 What is the respondent's answer to all this? It disputes that the delay amounted to a breach of the agreement. Its primary answer is that the delay arose as a result of the discovery, following the conclusion of the agreement, that the registration documents were cloned, which precluded it from furnishing the applicant with the necessary documentation. This, it says, was an unforeseeable event.

29 The respondent says that the solution to this difficulty lay outside its hands, and that the fulfilment of the respondent's obligation required it to enlist the participation of the Department of Licencing and Mr Isiaka. Indeed, the respondent states that rather than sitting on its hands, it took positive steps – with the assistance of Mr Isiaka – and approached the Department of Licensing to obtain the required documentation in order to furnish these to the applicant to enable it to transfer ownership.

30 The respondent says that its predicament did not end there. The Covid-19 pandemic and the restrictions that were imposed upon the inhabitants of the country as a result worsened its position. More specifically, the respondent relies upon the limitations on the number of personnel in government offices which had impactedthe provision of services by the Department of Licensing.

31 The respondent asserts that it informed the applicant of the causes of the delay as these events were unfolding. In oral argument it also sought to distinguish *Springfield Omnibus* on the basis that the factual circumstances in that case were different and did not involve the consequences of the pandemic. The respondent further took issue with the fact that the applicant still seeks cancellation even though the respondent has (belatedly) now performed.

32 In sum, then, the respondent accepts that it did not *timeously* perform its obligation, but it seeks salvation in the notion that it is not responsible for failure to

perform. On this score, it says that it was temporarily impossible for it to meet its obligation which, it contends, excuses its failure to perform. As I understood its case, and to be precise, the respondent's contention is not that performance was permanently impossible but that it was temporarily impossible, which occasioned (and ought to excuse) a delay of performance.

Where does all this leave matters?

Was the respondent in breach of the agreement?

33 The applicant seeks an order that the sale and purchase agreement is cancelled and that the parties are placed in the position they would have been prior to conclusion of the contract. It is necessary to note that, under our law, cancellation of a contract is an extraordinary remedy, and an innocent party may only avail itself of it in certain circumstances.

34 There are three dominant methods of cancelling a contract:

34.1 Firstly, a party may cancel in terms of the common law where a breach occurred of a term "that goes to the root of the contract". In such an instance, the materiality of the breach is a relevant factor in the determination of whether cancellation should be ordered or not.[5]

34.2 Secondly, the contract may be cancelled if the contract contains a provision that affords a party such a right on the occurrence of a specific breach.[6] This is cancellation clause. Whether a breach of the contract has been committed that allows the innocent party to rely on the cancellation clause is then a matter of interpretation of the contract.[7]

34.3 Thirdly, a party may cancel a contract *in the absence of a breach having occurred*, unilaterally, and usually on notice. Whether a party is

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5 *Oatorian Properties (Pty) Ltd v Maroun* 1973 (3) SA 779 (A) at 784.

6 Id at 784-785.

7 *North Vaal Mineral Co Ltd v The Lovasz* 1961 (3) SA 604 (T) at 606.

entitled to terminate a contract unilaterally in absence of a breach is not something provided for in the common law and depends on the terms of the contract under consideration.[8] This legal principle is not engaged in the present case.

35 On the current facts, I am persuaded by the applicant's reliance on *Springfield Omnibus* that the respondent was indeed duty-bound to ensure that delivery of the vehicle was passed to the purchaser once payment had been effected and to provide the purchaser with all documents that were necessary which would enable the applicant to effect registration of transfer of ownership into its name. The duty to supply the necessary papers to the purchaser of a vehicle is, as was found in that case, one of the primary obligations of the seller in such a sale and purchase contract. In addition, I am in agreement with the finding in *Springfield Omnibus* that this is a duty that needs to occur timeously. Failure to perform such an obligation within a reasonable time after payment of the purchase price and delivery of the vehicle would therefore amount to a material breach of the contract.

36 It is unnecessary here to focus too much on what would constitute a "reasonable time" for these purposes. In the current circumstances, I would think that one month was sufficient delay to occasion a breach (that being roughly the period after which the applicant sent its cancellation letter to the respondent). Nothing turns on this, however, because, in any event, I am satisfied that ten months after purchase of the Ford Ranger and payment of the purchase price by the applicant is certainly *not* a reasonable time within which to deliver the papers necessary to effect transfer into the applicant's name. The respondent has therefore committed a material breach of the agreement, and, in my view, the applicant is entitled to cancel the agreement and seek restitution.

37 This is not the end of the matter, however, as the respondent's defence of temporary impossibility must be considered.

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[8] *Van Streepen & Germs (Pty) Ltd v The Transvaal Provisional Administration* 1987 (4) SA 569 (A).

Was it temporarily impossible for the respondent to perform its obligations and does this excuse the respondent's delay?

38 The general rule in our law is that impossibility of performance prevents the creation of obligations and if, after the conclusion of the contract, performance subsequently becomes objectively impossible, the obligation to perform is, generally, extinguished.[9] In order to rely on impossibility, the impossibility must be objective in that no person could perform the obligation. Mere relative or subjective impossibility is therefore not a defence to non-performance of a contract and may justify the other party exercising an election to cancel.[10]

39 The impossibility must arise through either *vis major* or *casus fortuitous*. Currently in our law there appears to be, as *Christie's Law of Contract in South Africa* notes, no real distinction between these concepts, simply that the impossibility must arise from "*any happening whether due to natural causes or human agency, that is unforeseeable with reasonable foresight and unavoidable with reasonable care.*"[11]

40 Impossibility can arise due to the conduct of a third party. In *Bischofberger*,[12] the parties had entered into an agreement for the sale of land. The respondent agreed that a third party would cede the proceeds of a sale of another portion of land to the applicant *in lieu* of obtaining a bank guarantee. The sale by the third party fell through and the cession became impossible for the third party to perform. The court held that this rendered performance impossible and the agreement therefore "*ceased to exist*".[13]

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9 Ngcobo J described the underlying principle thus in *Barkhuizen v Napier* 2007 (5) SA 323 at para 75:

> "[The] common law does not require people to do that which is impossible. This principle is expressed in the maxim *lex non cogit ad impossibilia* - no one should be compelled to perform or comply with that which is impossible. This maxim derives from the principles of justice and equity that underlie the common law."

10 *Unibank Savings and Loans (formerly Community Bank) v ABSA Bank* 2000 (4) SA 191 (W) at 198B.

11 Bradfield GB, *Christie's Law of Contract in South Africa* 7ed 2016 (Lexis Nexis) page 548.

12 *Bischofberger v Van Eyk* 1981 (2) SA 607 (W).

13 Id at 611G.

41 The usual consequence of supervening impossibility of performance is termination of the obligation. In *Kudu Granite*, the parties' contract became void due to supervening impossibility as a result of a third party. The parties concluded a sale of shares and loan accounts in a certain company. The value of the loan account was in dispute and the contract provided that the parties would have 60 days to agree, failing which KPMG would determine the loan amount. As it turns out, KPMG was incapable of determining the loan amount.

42 The court held that:

> "[the respondent's] case was one of a lawful agreement which afterwards failed without fault because its terms could not be implemented. The intention of the parties was frustrated. The situation in which the parties found themselves was analogous to impossibility of performance since they had made the fate of their contract dependent upon the conduct of a third party (KPMG) who was unable or unwilling to perform."[14]

43 As a result, it is clear that impossibility can arise through the conduct of a third party, as the respondent seeks to assert in the current matter. The respondent does not, however, rely on impossibility as a basis to terminate the obligations, but rather seeks to assert that, because of what it deems "temporary impossibility", its obligations to perform *timeously* ought to be excused.

44 On the facts of this case, it does appear to me that an objective, albeit temporary, impossibility arose as a matter of fact. However, I am not convinced, for the reasons that follow, that this is sufficient to excuse the respondent's failure to deliver the vehicle documents timeously to the applicant.

45 All rules are, of course, susceptible to exceptions. Therefore, whilst the general rule in our law is that obligations are extinguished where performance after the conclusion of a contract becomes impossible due to no fault of the parties, this

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14 *Kudu Granite Operations (Pty) Ltd v Caterna Ltd* 2003 (5) SA 193 (SCA) at para 15.

general rule is subject to an assessment of the "*nature of the contract, the relation of the parties, the circumstances of the case and the nature of the impossibility*."[15]

46 Examples of this can be seen in the following:

46.1 Where the impossibility is self-created or due to the fault of the debtor then impossibility cannot be relied on as a defence to non-performance.[16]

46.2 Where the impossibility was reasonably foreseeable, or the risk of the impossibility arising was within the contemplation of the parties at the time of concluding the contract, then the defence cannot be relied on.[17]

46.3 Where a debtor takes on the risk of the impossibility in terms of the contract, then the debtor will still be liable in damages despite the impossibility.[18] In *Southern Era*, this occurred as a matter of law following the perfection of a sale of mineral rights. Upon perfection, the risk transferred to the buyer. The intercession of a change to the law that rendered delivery impossible did not excuse the debtor (who had in law assumed the risk of destruction of the *merx*) from payment of the purchase price.

46.4 In *Oerlikon SA (Pty) Ltd v Jhb CC*,[19] the contract specifically provided that one party would bear the risk of "*any accident, fire, drought, flood, frost or tempest*"[20] and the court accepted that the parties could do this.[21]

46.5 In *Nuclear Fuels*, the plaintiff raised in its replication that the defendant's reliance on the defence of impossibility could not succeed as the defendant had either guaranteed performance or alternatively had assumed

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15 *Bischofberger* above at 610H-611C.

16 *MV Snow Crystal, Transnet Ltd t/a National Ports Authority v Owner of MV Snow Crystal* 2008 (4) SA 111 (SCA) at para 28.

17 *Nuclear Fuels Corp of SA (Pty) Ltd v Orda AG* 1996 (4) SA 1190 (SCA) at 1209F-1210C.

18 *Southern Era Resources Ltd v Farndell NO* 2010 (4) SA 200 (SCA).

19 1970 (3) SA 579 (A).

20 Id at 582B.

21 Id at 585B-E.

the risk of impossibility.[22] On appeal, the Supreme Court of Appeal ultimately found that, on a proper interpretation of the contract, there was no such guarantee.[23] However, what is instructive is that the court did not reject the argument as a matter of law, but engaged with the allegation and argument substantively to determine whether the contract did indeed contain such a guarantee. One may therefore draw the inference that the Court saw no issue with the proposition that a guarantee of performance, if proved, could displace reliance on impossibility.

47 As explained above, I am convinced that the respondent in the present case breached its obligations in terms of the contract to timeously deliver the Ford Ranger documents to the applicant with the result that the applicant was unable to enjoy the use of the Ford Ranger it had purchased. The real issue is therefore what is to be made of the temporary impossibility raised by the respondent? Does this excuse the respondent's late delivery with the effect that it may be said that the late delivery of the documents, some ten months later, did not constitute a material breach that entitled the applicant to cancel the agreement?

48 By reason of the respondent's raison d'etre as a second hand motor vehicle dealership, the impossibility that arose in this case did so principally because it transpired, only once the agreement had been concluded (and the purchase price paid and the Ford Ranger delivered), that the respondent was not, in fact, the owner of the Ford Ranger. The respondent did not have the papers for the vehicle and, it appears, had also not prior to the conclusion of the agreement pressed the true owner for these. Under those circumstances, my view is that the impossibility was either reasonably foreseeable on the part of the respondent; the risk of the impossibility arising was within the contemplation of the respondent at the time of concluding the agreement; or, at the very least, the respondent took on the risk of the impossibility in terms of the agreement.

49 That being so, I find that the defence of temporary impossibility does not avail the respondent in the current matter. I thus conclude that the applicant was entitled

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22 *Nuclear Fuels* above at 1195G-H.

23 Id at 1208B-H.

to cancel the agreement, and properly did so by communicating the cancellation to the respondent in November 2020. On the facts of this case, the defence of temporary impossibility is unsustainable.

Restitution

50 It is trite that where a contract has been cancelled due to breach or otherwise, the general position is that each party is bound to restore to the other that which he or she has received in terms of the contract.[24]

51 In the current case, it is therefore clear that the applicant must return the Ford Ranger to the respondent and that the respondent must repay the purchase price of R266 000.00 to the applicant.

52 The applicant further seeks repayment of the amounts it incurred in improving and servicing the Ford Ranger. According to the applicant, total amount that arises from the invoices in this regard was R49 481.46**.** I am of the view that the respondent ought to refund the applicant for the improvements that the applicant made to the vehicle. This is in line with restoring the applicant to the position had the contract not been concluded. It is also fair, as the respondent will receive an improved and serviced Ford Ranger as a result of the services and repairs effected by the applicant.

Final points

53 The respondent's counsel urged me that, in the event that I reached the conclusion at which I have arrived, that I order the applicant to pay rent for the period in which the Ford Ranger has been in the applicant's possession. I am not persuaded that a case for this made out. It is common cause that the applicant has not been able to use the vehicle due to the respondent's failure to provide it with the papers.

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[24] *Cash Converters Southern Africa (Pty) Ltd v Rosebud Western Province Franchise (Pty) Ltd* 2002 (1) SA 708 (C) at 717G.

54 The applicant seeks costs against the respondent on an attorney and client scale. Whilst the respondent's actions left the applicant in an undesirable position, I am not persuaded that the facts warrant costs being paid on an attorney and client scale.

Conclusion

55 I accordingly conclude that the respondent materially breached the sale and purchase agreement regarding the Ford Ranger. The applicant was therefore entitled to cancel the agreement and validly did so by communicating this election to the respondent. In addition, I find that the respondent has not succeeded in raising a defence of temporary impossibility in the current circumstances.

56 I therefore make the following order:

56.1 The agreement between the parties was duly cancelled;

56.2 The respondent is ordered to refund the purchase price of the Ford Ranger (R266 000.00) to the applicant;

56.3 The respondent is ordered to pay to the applicant the amount of R49 481.46 for repairs, improvements and service that was done to the Ford Ranger;

56.4 The applicant is ordered to return the Ford Ranger to the respondent within one day of receiving the refund of the purchase price of the Ford Ranger as well as the aforesaid amount for repairs, improvements and service that was done to the Ford Ranger;

56.5 The respondent is ordered to pay the applicant's costs on a party and party scale.

Acting Judge of the High Court,
Gauteng Local Division, Johannesburg

Delivered: This judgement was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 14 February 2022

Date of hearing: 06 September 2021
Date of judgment: 14 February 2022

Appearances:

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