

**IN THE KWAZULU-NATAL CONSUMER TRIBUNAL  
HELD IN DURBAN**

Case number: **KZNCT12/2024**

In the matter between:

**KWAZULU-NATAL CONSUMER PROTECTOR  
MELISSA GOVENDER  
(Name of the Consumer)**

**FIRST PLAINTIFF  
SECOND PLAINTIFF**

and

**EVENTS BY ASH**

**DEFENDANT**

Coram:

Prof. B Dumisa	–	Chairperson & Presiding Member
Ms A Sewpersad	–	Alternate Deputy Chairperson & Member
Adv N Nursoo	-	Member

Date of Hearing – 08 October 2024

Date of Postponement Order - 28 October 2024

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**SETTLEMENT ORDER**

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**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-Natal Consumer Protector Act (the "Act") (hereinafter referred to as "the First Plaintiff"), with head Offices at 270 Jabu Street, Pietermaritzburg, in the Province of 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, in the employ of the First Plaintiff.

## **SECOND PLAINTIFF**

4. The Consumer, who is the Second Plaintiff in this matter is **Ms MELISSA GOVENDER**, a major female who resides in Izinga Eco Estate, Umhlanga, Durban, in the Province of KwaZulu-Natal (hereinafter referred to as “the Second Plaintiff” or “the Consumer”).
5. The Second Plaintiff lodged her complaint against the Defendants on the 18<sup>th</sup> of March 2024.
6. At the Hearings, on both 11 September 2024 and on 08 October 2024, the Second Plaintiff was represented by Ms Prash Babooram, An Attorney, representing her own law firm.

## **DEFENDANTS**

7. The Defendant in this matter is **EVENTS BY ASH**, a business with its principal place of business situated at 152 Damarosa Crescent, Moorton, Chatsworth, Durban, in the Province of KwaZulu-Natal (the “First Defendant” or “Events By Ash”). The Defendant is owned by N. Hurisparsad and A.S. Hurisparsad who were not officially cited in their personal capacities in this case.
8. The Defendant initially instructed Singh & Associates law firm to represent them on this matter at the initial hearing on 11 September 2024, though they were later represented by Ms K Ramlall of Ramlall & Associates at that initial hearing on 11 September 2024. Ms Urvashi Singh, of Singh & Associates, however, represented the defendant at the second hearing on 08 October 2024.

## **BACKGROUND**

9. The Consumer entered into a contract with the Defendants for

9.1 Wedding décor at the Second Plaintiff's wedding on 30 December 2023; and

9.2 Very specific details about the different aspects of that décor.

10. The Consumer complains that

10.1 The Defendant did not provide most of the things they promised; and

10.2 What was agreed to that was provided was of significantly poor quality than what was agreed to

## **APPLICATION TYPE AND ORDER SOUGHT**

11. The KZN Consumer Tribunal (hereinafter referred to "the Tribunal") derives the jurisdiction for hearing this matter under Section 21 of the KwaZulu-Natal Consumer Protection Act, 4 of 2013 (the KZNCPA).

12. This matter will be heard in terms of Section 19(2)(a)(i) and Section 47(3) and Section 54 of the Consumer Protection Act, No 68 of 2008 (the "CPA").

13. The Consumer's prayers were for:

13.1 Confirmation of the termination of the Agreement;

13.2 Declaration of the Defendant's conduct as prohibited conduct, and in contravention of Section 54 of the CPA;

13.3 Refund to the Second Plaintiff the full amount of R49 450.00 (Forty-Nine Thousand Four Hundred and Fifty Rand) being the total amounts paid for the service;

- 13.4 Interest on the amount referred to in (12.3) above at the mora rate in terms of the Prescribed Rate of Interest Act 53 of 1975;
- 13.5 The legal costs of the Second Plaintiff; and
- 13.6 Further and /or alternative relief.

#### **THE FIRST PLAINTIFF'S EFFORTS TO RESOLVE THIS COMPLAINT**

14. The First Plaintiff tried to mediate this matter between the parties:

- 14.1 The First Plaintiff officially lodged her complaint against the Defendant at the Office of the KwaZulu-Natal Consumer Protector, the First Plaintiff, on 18 March 2024. This matter was allocated to Mr Dlamini as the Investigator / Official responsible.
- 14.2 The Defendant initially seemed to co-operate with the Office of the Consumer Protector, with the Defendant instructing Singh & Associates law firm to represent them on this matter;
- 14.3 Singh & Associates responded, in writing on 19 April 2024, to some of the allegations made by the Second Plaintiff, disputing some of the allegations whilst conceding some of the allegations;
- 14.4 The Defendant later became uncooperative; and hence the First Plaintiff decided to refer the matter to KZN Consumer Tribunal for a hearing.

#### **SUMMONS SERVED ON THE DEFENDANT**

On the 14<sup>th</sup> of August 2024, the Summons was served on the Defendant, indicating the KZN Consumer Tribunal set down date of 11 September 2024.

15. The Defendants did not respond to the papers served on them; there was no answering affidavit.

## **THE FIRST HEARING ON 11 SEPTEMBER 2024**

16. The matter was set down for a hearing, on merits, on a default basis on 11 September 2024, because the Respondent had failed to file an intention to defend and also did not file an answering affidavit.
17. At the hearing, the Defendant's legal representative, Ms K Ramlall, attended, saying she had been asked by Singh & Associates to take over this matter, stating that the latter law firm claimed it had suffered a burglary at its premises which completely negatively affected their case management.
18. The First Plaintiff stated that the Defendant's new legal representative had only approached the First Plaintiff on Thursday 5 September 2024 to say they want to defend the matter; and they will apply for postponement. This was definitely out of time; and the Consumer Tribunal only heard about this on the day of the hearing.
19. The Second Plaintiff's legal representative, Ms Prash Babooram, strongly objected to the attendance of the Defendant's legal representative at the hearing, and also about the proposed application for postponement that the Defendants' legal representative wanted to make.
20. The Consumer Tribunal was initially not comfortable with entertaining this last-minute application for condonation by the Defendant. However, in the interests of justice, the Consumer Tribunal reluctantly decided to make a postponement order covering the way forward on this matter

## **POSTPONEMENT ORDER ISSUED AFTER THE FIRST HEARING ON 11 September 2024**

21. This is the Order of the Tribunal:
  - 21.1 The Defendant's application for condonation is granted.
  - 21.2 The Defendant must file their Answering Affidavit on or before Tuesday 17 September 2024; and

- 21.3** The Second Plaintiff must file their Replying Affidavit on or before Friday 20 September 2024.
- 22.** The Defendant is liable for the Second Plaintiff's full wasted costs, for preparations and appearance of one attorney on the 11<sup>th</sup> of September 2024. The total amount payable will be communicated to the Defendant once both the Defendant's answering affidavit and the Second Plaintiff's replying affidavit have been received and before the new date of the Consumer Hearing has been determined.
- 23.** The Defendant is also liable for the Consumer Tribunal's full wasted costs of the Hearing which had to be postponed on the 11<sup>th</sup> of September 2024. The total amount payable will be communicated to the Defendant once both the Defendant's answering affidavit and the Second Plaintiff's replying affidavit have been received and before the new date of the Consumer Hearing has been determined.
- 24.** The Defendant will be ordered to settle both full wasted costs, as per Paragraph 23 and Paragraph 24, within 10 days after receiving the full details of both full wasted costs.

#### **DEFENDANT'S COMPLIANCE WITH THE POSTPONEMENT ORDER**

- 25.** The Defendant did file the Condonation Application on 16 September 2024, which was in line with the terms of the Postponement Order.
- 26.** The Defendant did file the Supplementary Opposing Affidavit on 16 September 2024, which was in line with the terms of the Postponement Order.
- 27.** The Second Plaintiff promptly filed their Response to the Defendant's Opposing Affidavit.
- 28.** Based on the compliance of the Defendant with the terms of the Postponement Order, the First Plaintiff thus set down 08 October 2024 as the date for the hearing on merits of this matter. It was

there that the Second Plaintiff would substantiate more on their Founding Affidavit; and where the Defendant would substantiate more on their Supplementary Opposing Affidavit.

## **THE SECOND HEARING ON 08 OCTOBER 2024**

- 29.** Both parties, the Second Plaintiff and the Defendant, were in attendance at the Second Hearing of this matter.
- 30.** At this hearing, the First Plaintiff informed the Chairperson of the KZN Consumer Tribunal that the parties had decided to settle the matter; and are requesting the Tribunal to make their Settlement Agreement an Order of the KZN Consumer Tribunal.

## **ORDER**

- 31.** The Settlement Agreement between the parties, on case KZN12/2024, is hereby made an ORDER of this KwaZulu-Natal Consumer Tribunal. See Annexure A and Annexure B.
- 32.** Ms Nikita Hurisparsad and Mr A.S. Hurisparsad are confirmed as Surety and Co-Principal Debtor on this Settlement Order.
- 33.** The Defendant is liable for the Second Plaintiff's full wasted costs, for the preparations and appearance of one attorney on the 11<sup>th</sup> of September 2024.
- 34.** The Defendant is also liable for the Second Plaintiff's costs, for the preparations and appearance of one attorney on 08 October 2024.

35. The Second Plaintiff's full costs, for both the 11<sup>th</sup> of September 2024 and the 08<sup>th</sup> October 2024, will be payable to the Second Plaintiff's bank account within 30 days after the issuing of the ORDER;

BANK : FIRST NATIONAL BANK  
BRANCH CODE: 250655  
ACCOUNT TYPE: SAVINGS  
ACCOUNT HOLDER: MELISSA GOVENDER  
ACCOUNT NUMBER: 62653432048

**DATED ON THIS 28<sup>th</sup> DAY OF OCTOBER 2024**

[Signed]

**Prof B Dumisa**  
**PRESIDING TRIBUNAL MEMBER**

Ms A Sewpersad (Alternate Deputy Chairperson & Member) and Adv N Nursoo (Member) concurring

**IN THE KWAZULU NATAL TRIBUNAL HELD AT THE ETHEKWENI DISTRICT**

**CASE NUMBER KZNCT12/2024**

**In the matter between:**

**THE KWAZULU NATAL  
CONSUMER PROTECTOR**

**FIRST PLAINTIFF**

**MELISSA GOVENDER**

**SECOND PLAINTIFF**

**EVENTS BY ASH**

**DEFENDANT**

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**SETTLEMENT AGREEMENT**

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**WHEREAS** the consumer lodged a complaint with the Office of the Kwazulu Natal Consumer Protector in terms of the Consumer Protection Act 68 of 2008 and the Kwazulu Natal Consumer Protection Act 04 of 2013.

**AND WHEREAS** the Office of the Consumer Protector KwaZulu Natal facilitated the handling of the complaint which was referred to the KwaZulu Natal Consumer Tribunal.

**AND WHEREAS** subject to the confirmation of the Consumer Tribunal in terms of S10 of the KwaZulu Natal Consumer Protection Act 04 of 2013, the parties agree that judgement be recorded in favour of the Second Plaintiff as set out below:

1.

The Defendant accepts prohibited conduct and agrees to pay to the Second Plaintiff the sum of R28750.00 (Twenty Eight Thousand Seven Hundred and Fifty Rand) being

the full and final refund amount to the Second Plaintiff in respect of previous services rendered which is the subject of the dispute.

2.

The above-mentioned payment is to be paid in two installments of R25000.00 (Twenty Five Thousand Rand) payable on the 30<sup>th</sup> of November 2024 and thereafter the amount of R3750.00 (Three Thousand Seven Hundred and Fifty Rand) on or before the 31<sup>st</sup> of January 2025.

3.

The Defendant will make the abovementioned payments directly to the Second Plaintiffs bank account-

**BANK: FIRST NATIONAL BANK**

**BRANCH CODE:250655**

**ACCOUNT TYPE: SAVINGS**

**ACCOUNT HOLDER: MELISSA GOVENDER**

**ACCOUNT NUMBER: 62653432048**

4.

Should the Defendant fail to pay as set in point 1 and 2 above, the full amount of R28 750.00 (Twenty Eight Thousand Seven Hundred and Fifty Rand) shall immediately become due, owing and payable to the second plaintiff.

5.

The parties agree that the Second Plaintiff shall approach any competent court to enforce this agreement which is made an order of the Consumer Tribunal and to further seek interest at the prescribed rate at the time of this agreement was made an order of the KwaZulu Natal Consumer Tribunal.

*Melissa Govender* (M)

6.

The contents of the KwaZulu Natal Consumer Tribunal Postponement and Cost order dated the 12<sup>th</sup> of September 2024 still remains in place.

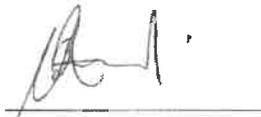
7.

The parties further agree that the terms and conditions of this agreement will be made an order of the KwaZulu Natal Consumer Tribunal.

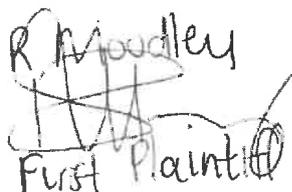
**DATED AT DURBAN ON THIS 08 DAY OF OCTOBER 2024.**



**MELISSA GOVENDER  
SECOND PLAINTIFF**



**NIKITA HURIPARSAD  
FOR THE DEFENDANT**



R. Moodley  
First Plaintiff