THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER OF THE CONSUMER PROTECTION ACT, 2010;

ANDRINE ISSAC AND BETTY ISAAC
VS.
JEFFERSON N'GANGA
(Trading as Joshua Enterprise)

Case No: CPA.12.159

Complainant – Ms. Andrine Isaac
Ms. Betty Isaac

Respondent – Mr. Jefferson N'ganga

QUORUM:
Mr. Victor Pool – Commissioner (Presiding)
Mr. Philippe Chong-Seng - Commissioner
Mrs. Jenna Thelermont – Commissioner

For the Complainant: Ms. Priyanka Ramruchaya –Legal Officer (FTC)

For the Respondent – Ms. Vanessa Nicette

ORDER

[1]The Fair Trading Commission filed a case before the Board of Commissioners on behalf of Ms. Andrine Isaac and Ms. Betty Isaac of Takamaka, Mahe against one Mr. Joshua N'ganga trading as Joshua Enterprise of Anse Aux Pins, Mahe for the contravention of Section 40(1)(a) and (b) of the Consumer Protection Act, 2010 for failure to perform and complete a service in a timely manner and failure to perform a service in a manner and of a quality persons are generally entitled to expect. The complainants prayed for a refund of SR97,755 for said failures.

[2]The parties appeared before the Board of Commissioners on Tuesday 12th February, 2019 for the hearing of the matter whereby the respondent indicated that he would wish to settle the matter on the condition that the complainant reduces her claim to

take into account the materials purchased (including the cost of transportation) and works he had done. The complainant agreed.

[3]It was undisputed before the Board that the respondent gave the complainant the sum of SR.15,000 for rock blasting from the sum she had paid him. It was also undisputed that the cost of excavation for the foundation was SR.14,000, undertaken by the respondent. There was no clear evidence on file to support the sum paid for the materials and the parties did not agree on the exact amount of materials purchased although it was agreed that the respondent had purchased all the necessary materials for the foundation. They opted to allow the Board to mediate on a suitable sum. According to the data before it the Board calculated the approximate amount of materials needed for the foundation of a house with a footprint of 101 square meters. The Board used the concrete mix ratio of 1:2:4 to calculate the tonnage for cement, fine crusher dust and aggregate respectively. It was confirmed that three rows of 6-inch solid blocks and A142 welded mesh were purchased. The Board then calculated the total sum of these materials based on current market price which totalled to SR.59,310 and deducted this sum from the SR.97,755 being claimed and made a proposal of SR38,445 for refund. The complainant made a counter proposal of SR.40,000 to which the respondent agreed on the condition that he is allowed to pay in SR.10,000 instalments starting the 1st of March, 2019. The complainant agreed.

[4]Accordingly, the Board of Commissioners hereby endorses this agreement as final settlement of the case and hereby makes the following orders to be complied with by the respondent Mr. Jeffeson N'ganga;

- **The first instalment of SR.10,000 is to be paid by the 1st of March, 2019;**
- **The second instalment is to be paid by or before the 1st of April, 2019;**
- **The third instalment of SR.10,000 is to be paid by the 2nd of May, 2019;**
- **The fourth instalment is to be paid by 3rd of June, 2019;**
- **All payments are to be made to the office of the Fair Trading Commission, 3rd Floor, Block B, Unity House, Victoria.**

[5]It shall be noted that pursuant to Section 70 of the Consumer Protection Act, 2010 a person who fails or refuses to comply with an order, direction, or undertaking of the Commission commits an offence and is liable on conviction where the person is an individual, to a fine not exceeding 100,000 rupees or to imprisonment for a term

not exceeding two years, or to both such fine and imprisonment. **Therefore, in the event that Mr. Jefferson N'ganga fails to make any of the payments due by any the dates stated above, the matter shall be forwarded to the Commercial Crime Unit of the Seychelles Police Department for prosecution.**

We so order.

Dated this 2nd day of April, 2019

Mr. Victor Pool
Commissioner
(Presiding)

Mr. Philippe Chong-Seng
Commissioner

Mrs. Jenna Thelermont
Commissioner