THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION
VS.
MAX CONTRACTOR
(Rep herein by Mr. Max Leon)

CPA.13.004

Complainant – Mr. Berard Jules
Mrs. Romina Jules
Respondent – Max Contractor
(Rep herein by Mr. Max Leon)

QUORUM:
Mr. Colin Jean-Louis Chairperson
Mrs. Jenna Thelermont – Commissioner
Mr. Michael Nalletamby – Commissioner

For the Complainant
Ms. Chantale Barallon – Director for Legal Affairs (FTC)
Mr. Berard Jules – Complainant
Mrs. Romina Jules – Complainant

For the Respondent
Mr. Max Leon

RULING

[1]The Fair Trading Commission, on the 7th of January, 2013, registered a complaint (Exhibit 3)from Mr. Berard Jules and Mrs. Romina Jules, the complainants herein (Exhibit 1), against Max Contractor, a licensed Class III Building Contractor (See Exhibit 2) represented by Mr. Max Leon and respondent herein. The complaint surrounded the breach of a written agreement entered into between the

complainants and respondent on the 27th of July, 2012(Exhibit 4). One section of the agreement entailed that Max Contractor *"will build timber work and roofing of the house"*. Relevant payments were made by the complainants (See Exhibit 4 and 5) but the respondent failed to complete the works. As a consequence the complainants found themselves in a difficult financial situation and were forced to obtain an additional loan (Exhibit 10) to complete the roofing works. They are imploring for a refund.

[2]The case appeared before the Board of Commissioners on Wednesday 28th August, 2013 for hearing with one count of failure to complete a service contrary to Section 40(1)(a) and one count of failure to refund monies contrary to Section 40(2)(b). It came to light during the deposition from both parties that a sum of at least SR. 40, 000/- was paid to the respondent. It should be noted that neither breach was contested by the respondent and via an official statement dated 21st January, 2013 marked as Exhibit 7 the respondent agreed to repay the complainants the said sum in monthly instalments of SR. 5, 000/- as from February, 2013. The Board of Commissioners takes notice that to date not one payment has been made and the respondent has provided no plausible explanation for defaulting although he has always expressed his willingness to refund. In the meantime the complainants find themselves wedged in a financial crisis whereby they are unable to carry on with the construction of their home. The complainants added that their current living situation is far from ideal and day to day life is sometimes a dilemma. This situation cannot be allowed to continue.

[3]Armed with the findings of the Commission as well as Mr. Leon's own admission the respondent was found to be in contravention of Section 40 of the Consumer Protection Act, 2010. Grasping the sense of urgency in this matter the Board, before both parties, **directed the respondent, Max Contractor, represented herein by Mr. Max Leon, to pay on or before the 30th of September, 2013, the sum of SR. 10, 000/- to the complainants** to provide some ease to their difficulties and prevent any additional hardship. Further directions were to be received by way of a ruling of the Board. The hearing was subsequently adjourned and the Commissioners left to deliberate on pending issues.

[4]Addressing the gist of the matter the respondent, Max Contractor, is hereby further ordered to refund to the complainants, Mr. Berard Jules and Mrs. Romina Jules the **remaining sum of SR. 30, 000/- in minimum monthly instalments of SR.5,000/- starting from or before the end of October, 2013**. Moreover the

Board of Commissioners finds it necessary **to impose a fine of SR. 5, 000/- on Max Contractor as penalty for the contravention of Section 40 of the Consumer Protection Act, 2010.** **All payments are to be made to the Fair Trading Commission on or before the last day or every month until full settlement of the case.**

[5]At this juncture the Board would wish to inform the respondent of the provisions of **Section 70 of the Consumer Protection Act** which states as follows; "*A person who fails or refuses to comply with an order, direction or undertaking of the Commission or order or direction of the Tribunal, commits an offence and is liable on conviction – (a) where the person is an individual, to a fine not exceeding 100, 000 rupees or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment; (b) where the person is a person other than an individual to fine not exceeding 400, 000 rupees.*"

[6]At the conclusion of the hearing it came out that Mr. Leon still had some tools on the premises of Mr. and Mrs. Jules. The Board was also asked to make a pronouncement on this subject. Hence it is hereby ordered that the tools are to remain in the complainants' possession until the final payment of the refund. We rule accordingly.

[7]The parties are free to appeal against this ruling (See Section 44 of the Fair Trading Commission Act, 2009).

Pronounced by us on this 25th day of September, 2013.

Mr. Colin Jean-Louis	**Mrs. Jenna Thelermont**	**Mr. Michael Nalletamby**
Chairperson	**Commissioner**	**Commissioner**