CONSUMER CLAIMS TRIBUNAL

Claim Number CCT/76/24/F

Marco Trucco

vs

Comforabita Ltd

Today, the 21st October 2024

The Tribunal:

Having seen the Statement of Claim filed by the applicant on the 5th April 2024;

Having seen that the respondent was duly served with the Statement of Claim on the 15th April 2024. Notwithstanding this, no Reply was filed;

Having heard the applicant's sworn testimony;

Having seen all the documents presented by the applicant;

Having seen that no representative of the respondent appeared for the sitting held before the Tribunal;

Having seen Regulation 12.1 of S.L. 378.01;

Having seen that the Claim was put off for a final decision.

Considered:

Whereas in the instant Claim, the applicant complains that a set of internal doors which he ordered from the respondent was defective for the following reasons:

- The sliding door supplied was different from the one ordered;
- The installer damaged one of the walls;

- The sliding door was slanted and was not closing properly;
- The head jambs of the doors were offset and poorly aligned.

Whereas the applicant explained that notwithstanding promises to remedy the defects on part of the respondent, nothing materialised and he was constrained to seek the assistance of the MCCAA and eventually instituted these proceedings;

Whereas the applicant is claiming the total sum of €8,818. In his testimony, the applicant explains that this amount is composed of the following:

- A refund of the deposit of €1,850 which he had paid for the doors;
- Three months' rent at a total of €6,600 (€2,200 per month) because according to the applicant, owing to the defective doors, he could not live in his apartment.

Whereas the Tribunal notes that the amounts mentioned by the applicant in his testimony do not tally squarely with the sum claimed. Notwithstanding this, the Tribunal will consider the claim on its merits and will liquidate any amounts due to the applicant independently.

Whereas the respondent failed to file a Reply and also failed to appear for the sitting held before the Tribunal. Owing to this, the Tribunal is deprived of an explanation of the relevant facts according to the respondent. Furthermore, reference is made to Regulation 12.1 of S.L. 378.01 which sets out that the Tribunal may decide a claim against the respondent when it fails to appear for the sitting without justification. It is the duty of the parties to follow up as regards sitting dates to ensure that they duly attend.

Whereas in view of the above, in principle, the Tribunal believes that the applicant's Claim should be upheld. However, the Tribunal will proceed with an independent liquidation of the amounts due to the applicant. In this regard, a refund of the deposit of €1,850 which he had paid for the doors is justified since the contract of sale is being dissolved on the basis of non-conformity. From the applicant's testimony it results that he had only paid 50% of the total price of the doors which stood at €3,700.

Whereas on the other hand, the Tribunal does not believe that the applicant is entitled to be compensated for three months' rent as he is claiming. First and foremost, no evidence of actual rent disbursements was brought and secondly, on the merits, the Tribunal does not see how one is justified in moving to considerably

expensive rented accommodation just because the doors of one's residence are not perfectly aligned and not closing completely. Hence, the claim for rent will be denied.

Whereas the Tribunal does consider, however, that owing to the fact that the applicant's repeated complaints to the respondent were ignored, he is entitled to moral damages for the inconvenience suffered in terms of Article 21(2) of the Consumer Affairs Act. Accordingly, the Tribunal liquidates such damages in the sum of €200.

Decision:

For the above reasons, after having seen Chapter 378 of the Laws of Malta, the Tribunal decides this claim by upholding it *in parte* and consequently condemns the respondent to pay the applicant the total sum of two thousand and fifty Euro (€2,050) by way of refund and moral damages.

The respondent is also ordered to remove the doors from the applicant's property within two months of this decision at its own expense.

Legal interest shall run as from the date of this decision.

All costs shall be borne by the respondent.

Avv. Mattia Felice
Arbiter