

# Correctly Rejecting a Claim and Cancelling a Contract of Insurance

*Musa v King Price Insurance Company  
2022 JDR 1149 (GJ)*

## INTRODUCTION

On 9 May 2022, the Johannesburg High Court, Gauteng Division granted an order in favour of King Price Insurance Company ("King Price") against Zandisiwe Musa ("Applicant"). The subject judgement validated the actions of King Price and confirmed that its rejection of the Applicant's insurance claim and subsequent termination of the Applicant's insurance contract was correctly and lawfully attended to.

This case bears relevance to insurers and insured persons (and entities) alike and it confirms the importance of an insured adhering to his/her/ its obligations under a insurance contract.

## BACKGROUND FACTS OF THE CASE

In or around 2017, the Applicant and King Price entered into a short-term insurance contract in terms of which King Price agreed to provide accidental damage cover in respect of the Applicant's motor vehicle ("the Contract").

Amongst other things, the Contract stated that, in the event of a claim being lodged, the Applicant undertook to provide King Price with:

- true and complete information;
- all information and documentation requested by King Price within the timeframe provided therefor; and
- the relevant documents required to validate the claim.

Furthermore, under the Contract, the Applicant undertook to comply with King Price's instructions and requests as and when required.

On or about 10 April 2020, the Applicant was involved into a motor vehicle collision and subsequently lodged a claim with King Price seeking indemnity under the Contract.

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After lodgment of the claim, King Price in an attempt to validate the claim, requested additional information from the Applicant, as was its entitlement under as the Contract. In particular King Price requested the Applicant grant it permission to approach the Applicant's cellphone operator to provide information which would be used to verify the Applicant's version of events.

The Applicant failed, alternatively refused, alternatively neglected to provide King Price with the requested information and, consequently, King Price rejected the Applicant's claim on this basis.

Thereafter, King Price cancelled the Contract as a result of the failure of the Applicant to provide the requested information. The Contract cancellation was not challenged by the Applicant.

## THE COURT FINDINGS

The Court was tasked with determining the validity of the rejection of the Applicant's claim. In this regard, the Court thoroughly analysed the Contract and found that it was reasonable and appropriate for King Price to request any information that would assist it in validating the Applicant's claim.

In its analysis, the Court referenced the judgment of *Commercial Union Assurance Company of South Africa Ltd v KwaZulu Finance and Investment Corporation and Another 1995 (3) SA 751 (A)* which held that it is for an insurer to prove that it is entitled to repudiate a claim based on the reasons relied on.

The Court confirmed that King Price had clearly shown that it was legally entitled to cancel the Contract and reject the claim as a result of the Applicant's unremedied breach of the Contract.

## HONOURING OF AGREEMENTS

In the subject case, the legality and enforceability of the Contract was not in dispute and the Court therefore correctly found that the terms of the Contract must be honoured by both parties, in good faith.

It is clear that the Applicant agreed to the contents of the Contract and was therefore under a duty to comply with same.

Importantly, it is clear that parties to a contract are bound by the agreed terms of the contract and cannot choose to enforce only the parts of the contract that benefit them.

Parties to contracts of insurance must therefore ensure that they understand and comply with the obligations required of them in terms of their contract, as failure to comply with these obligations can result in, amongst other things, claims being rejected and, in certain cases, the contract of insurance being cancelled.

## CONCLUSION

It is important for parties entering into contracts of insurance (and contracts in general) to read and understand the terms of the contract, as they will be bound to same.

A party's ignorance or misunderstanding of the terms and conditions of a contract will not constitute a defence for non-compliance therewith.

If an insured has any uncertainty regarding the terms outlined in his/her/its contract of insurance (or proposal document), it is highly advisable to seek guidance from a qualified insurance broker, alternatively an attorney with expertise in insurance law.

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