

**IN THE DISTRICT COURT  
AT AUCKLAND**

**I TE KŌTI-Ā-ROHE  
KI TĀMAKI MAKĀURAU**

**CIV-2019-004-001673  
[2020] NZDC 2628**

BETWEEN

JODEN FINANCE LTD  
Plaintiff

AND

SANHACHAI PRERSSLIP  
Defendant

Hearing: 13 February 2020

Appearances: Plaintiff appears in Person  
A Fuiava for the Defendant

Judgment: 13 February 2020

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**ORAL JUDGMENT OF JUDGE G M HARRISON**

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[1] The appellant in this matter, Joden Finance Ltd, appeals a decision of the Motor Vehicle Disputes Tribunal of 26 August 2019. The effect of that decision was that Joden must repay the purchaser, Mr Prersslip, \$15,266 no later than 6 September 2019 and that once paid the vehicle had to be returned to Joden.

[2] The ground of appeal advanced is that at the time of the hearing before the Tribunal there was evidence of damage to the vehicle which Mr Murphy appearing as a director of Joden claims resulted in the purchaser losing his right of rejection of the vehicle pursuant to s 20(1)(c) Consumer Guarantees Act 1993. The Tribunal came to the conclusion that such damage as it was able to ascertain from photographs presented in evidence did not result in fulfilling the provisions of s 21(c) and did not deprive the purchaser of his right of rejection. Mr Murphy's case today is that decision was wrong and that the appeal should proceed on that basis. He has nevertheless filed an application to call further evidence on appeal. The basic rule for presentation of

further evidence is essentially that it has arisen after the date of the decision appealed against and that may be relevant to the determination of the appeal.

[3] In his submission, Mr Murphy refers to an occasion in October 2019, after the Tribunal's decision, when, in the company of Mr Prersslip's legal representative, Mr Murphy was able to inspect the vehicle at which he observed damage to a much greater extent than that put before the Tribunal. On the face of it that further evidence may be relevant to the right of the purchaser to reject the vehicle. However, Mr Murphy says that is not his case. His case is that the Tribunal's decision as it stands is wrong by reason of the finding of the Tribunal that the damage referred to in evidence by the Tribunal is sufficient to warrant the application of s 21(c) of the Act.

[4] That being the case, there is no basis upon which any further evidence should be called at the hearing of the appeal. It will proceed on the basis of the decision of the Tribunal as it stands and so for that reason the application to adduce further evidence is dismissed because such further evidence is not sought to be relied on to determine the appeal and the costs of the respondent in respect of this application are reserved.

G M Harrison  
District Court Judge