[2025] JMCC Comm 17

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

COMMERCIAL DIVISION

CLAIM NO.SU2023CD00466

BETWEEN	**STEWART FINANCE JAMAICA LIMITED**	
	(Formerly Simpson Finance Jamaica Limited)	**CLAIMANT**
AND	**GREGORY DUNCAN**	**1st DEFENDANT**
AND	**FIEONA GRIFFITHS**	**2nd DEFENDANT**

Mr Harrington McDermott instructed by McDermott Reynolds McDermott for the claimant

Mr Gregory Duncan, the 1st defendant appearing in person

Heard: February 29, 2024, May 9, 2024, and May 9, 2025

Civil Procedure - Application for Summary Judgment - Whether Defence and Counterclaim have a real prospect of success – Whether Defence to be struck out for not disclosing reasonable grounds to defend the claim - Civil Procedure Rules 15. 2 and 26.3

CORAM: JARRETT, J

Introduction

1. This is an application by the claimant for summary judgment against the 1st defendant on both the claim and on the counterclaim. Alternatively, the claimant

asks that the counterclaim to be struck out as disclosing no reasonable grounds to bring it, and also for the defence to be struck out as disclosing no reasonable grounds to defend the claim.

2. The claimant's primary claim is for damages for breach of contract by which, in consideration of the sum of $3,375,000.00, loaned to the defendants to purchase a 2013 Mitsubishi L200 motor vehicle, the defendants agreed to repay the loan by monthly instalments of $57,060.65 each. The loan was secured by a Bill of Sale over the said 2013 Mitsubishi L200 motor vehicle. The claimant claims that the defendants failed to repay the loan and are therefore liable in damages for the balance outstanding and interest. An order for the delivery up of the motor vehicle, and damages for detinue and conversion are also sought.

3. In a defence filed in response to the claim, the 1st defendant contends that the loan has been repaid, and, in his counterclaim, he seeks the transfer of a clean title to the 2013 Mitsubishi L200 motor vehicle, as well as damages for defamation. The 2nd defendant was not served with the claim form and the particulars of claim and consequently, did not participate in these proceedings.

4. Prior to hearing the application currently before the court, on January 29, 2024, I refused the 1st defendant's application filed on September 13, 2023, in which he sought to strike out the claimant's statement of case under CPR 26.3. He contended that contract 050182 was redeemed on June 9, 2021 and he has no contract with the claimant.

The claim

5. The claim form and the particulars of claim were filed on September 8, 2023. The claimant pleads that it is a limited liability company engaged in the business of providing motor vehicle loan financing. On June 16, 2014, it granted the defendants a loan in the amount of $3,375,000.00 to purchase a 2013 Mitsubishi

L200 motor vehicle. The loan was secured by a Bill of Sale which created a charge by legal assignment of the motor vehicle in favour of the claimant. The terms and conditions of the loan are contained in a Loan Agreement signed by the parties, in which the terms of the Bill of Sale were incorporated.

6. By virtue of the Loan Agreement (which is attached to the particulars of claim) , $57,060.65 was to be paid by the defendants to the claimant each month in service of the loan. It is alleged that in breach of the Loan Agreement, the defendants failed to make the agreed monthly payments, resulting in an outstanding amount owed as of August 1, 2023, of $ 5,298,110.68, with default interest accruing at 0.05% per day amounting to a daily accrual of interest of $ 1,632.63. It is further alleged that in breach of the claimant's right under the Bill of Sale to possession of the motor vehicle, the defendants have withheld its location and /or failed to deliver up possession despite the claimant's demands.

7. In its prayer for relief the claimant claims damages for breach of contract in the sum of $ 5,298,110.68 and continuing; interest on that sum in the amount of $1,632.63 per day ; interest pursuant to the Law Reform Miscellaneous Provisions Act (LRMPA) at : "a commercial rate"; damages for detinue ; damages for conversion; an order for the delivery up of possession of the 2013 Mitsubishi L200 motor vehicle and costs.

The defence and counterclaim

8. In his defence filed on September 13, 2023, the 1st defendant alleges that it is prejudicial to him to defend a second claim seeking identical relief. He pleads that the claim is in relation to a loan which the claimant has acknowledged was repaid and that all the relief sought were previously sought and satisfied. It is alleged that the claimant is seeking to be doubly compensated.

9. In the counterclaim, it is pleaded that the claimant has failed to honour its obligation to the 1st defendant and therefore specific performance is being sought. There is

also a claim for the claimant to transfer to the 1st defendant a "clean" title for the motor vehicle as well as damages for defamation in the amount of $5,298,110.68.

Defence to Counterclaim

10. In its defence to the counterclaim, the claimant relies on the allegations in its particulars of claim and states that the defendants are not entitled to the relief sought.

The application for summary judgment and to strike out the defence

11. The claimant's notice of application was filed on December 18, 2023. As stated earlier, in it the claimant seeks summary judgment in relation to the claim and the counterclaim, alternatively an order striking out the defence as disclosing no reasonable grounds to defend the claim, and an order striking out the counterclaim as disclosing no reasonable grounds to bring it. Reliance is placed on CPR 15.2 and 26.3(1)(c), respectively and it is stated that the claimant proposes that in determining the application, the court deal with the following issues: -
    a) Whether the defendants are in breach of contract.
    b) Whether the defendants are indebted to the claimant under the Loan Agreement.
    c) What is the defendants' current liability to the claimant if any.

The evidence in support of the application

12. An affidavit of Fiona Fearon (Ms Fearon) in support of the application was filed on December 18, 2023. During counsel Mr McDermott's oral submissions on February 29, 2024, he mentioned that the 2013 Mitsubishi L200 motor vehicle had been repossessed since the filing of the claim. As there was no evidence of this important fact in the affidavit of Ms. Fearon, I ordered that a further affidavit be filed

limited to addressing the whereabouts of the motor vehicle. Mr Duncan objected to this course of action, but it was critical that the court be provided with this evidence, as counsel's submission that the vehicle was repossessed is not evidence. On March 11, 2024, the claimant filed the 2nd Affidavit of Fiona Fearon. The claimant also relies on an affidavit of Tyrone Mullings filed on April 12, 2024.

13. In her affidavit filed on December 18, 2023, Ms Fearon says she is the General Manager for the claimant. She says the loan to the defendants was in the sum of $ 3,375,000.00. She exhibits the Loan Agreement. She also refers to the Bill of Sale, by which the 2013 Mitsubishi L200 motor vehicle was assigned to the claimant as security for the loan. According to her, there were several breaches of the Loan Agreement by the defendants, the most significant of which was the nonpayment of the agreed monthly instalment of $ 57, 060.65, during the period February 2020 to October 2020. She says that during this 10-month period the defendants did not service the loan.

14. Ms Fearon says further that based on the defendants' default, under the Bill of Sale, the claimant had the right to repossess the motor vehicle and realise its security. However, during the period of their default, the defendants refused to disclose the location of the vehicle, and the claimant was unable to locate it. Faced therefore with a nonperforming loan and the inability to realise its security, the claimant took the decision to put the loan on its non-performing books. The effect of putting the loan on its non-performing books is that the principal balance and the arrears were written off by the claimant. She exhibits a copy of the transaction history on the account which she says shows the account being moved from active status to archived on December 31, 2020. The defendants did not pay all the generated invoices and did not liquidate the loan.

15. Email dated February 12, 2020, and letter dated March 4, 2020, from the claimant, represent the arrears on the loan at the time of those two correspondences, and not the amount to close out the loan account. Due to the defendants' failure to pay

the arrears due, a Notice of Repossession was issued on March 4, 2020, and a bailiff engaged for that purpose. On June 9, 2021, the 1st defendant paid $300,000.00 on the loan. This did not liquidate the loan.

16. Paragraphs 24, 25 and 26 of Ms Fearon's affidavit read as follows: -

> "24. Pursuant to Clause 2(2) of the Loan Agreement, instalment payments were to be appropriated first to interest accrued or due and payable and thereafter to the reduction of the principal sum. Therefore, the $300,000 payment received on June 9, 2021, was applied to interest payments outstanding on the account which amounted to $809,899.71 at the date of payment. This is demonstrated in a statement exhibited hereto and marked **"6"** for identification, which is a statement showing the default interest calculations on the Defendant's loan account.
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> 25. At this juncture, it is important to note the client's cash payment of $300,000.00 received on 9/6/2021 was erroneously excluded from the original statement with default interest dated August 1, 2023, which was used as the basis to calculate the Defendants' liability at the time the claim was filed. Accordingly, at the time the claim was filed, the Defendants' total liability was calculated at the sum of $5,298,110.68. When the cash payment of $300,000.00 is applied to the account, the Defendants' liability is reduced to the sum of $ 5,270,925.76 as disclosed in exhibit "**6**".
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> 26. Also of note is the fact that in or around 2021, the 1st Defendant had approached the Claimant about the release of the lien on the Assigned Vehicle. In response, the Claimant provided the 1st Defendant with a statement showing the total invoices generated on the account, the total payments that were made and the balance due to the Claimant to release the lien. Exhibited hereto marked "**7**" for identification is a copy of the said statement. That statement duly accounted for the $300,000.00 payment

that the 1st Defendant had made on June 9, 2021. At the time the 1st Defendant was provided with that statement, the Claimant was prepared to waive the default interest which was calculable on the Defendants' loan account. The fact that default interest was not included in the said statement is indicative of this. The 1st Defendant did not take up the Claimant on this offer, and so all contractually due interest has been charged to the loan account as seen in exhibit "**6.**""

17. The defendants have not liquidated the loan, nor have they paid the 84 monthly instalments they agreed to pay. Under clause 2(1)(b) of the Loan Agreement the defendants should have made a bullet payment of $944,759.54, but to date, this payment has not been made. Based on the 1st defendant's defence and counterclaim, he has no real prospect of successfully defending the claim or prosecuting his counterclaim.

2nd Affidavit of Fiona Fearon filed March 11, 2024

18. In her 2nd Affidavit filed on March 11, 2024, Ms Fearon says the motor vehicle was repossessed on September 14, 2023, and sold by private treaty on February 29, 2024, for $705,000.00. She says the repossession was carried out by Mr Tyrone Mullings (Mr Mullings), a bailiff employed to Mrs Norma Mullings a Collector/Bailiff, who was engaged by the claimant. In or around September 2023, Mr Mullings advised her that in his efforts to locate the motor vehicle he was advised by the 1st defendant that it was at the Kingston and St. Andrew Corporation (KSAC) Pound. To get the motor vehicle released, the claimant had to prove that it held a lien over it. The claimant paid impounding fees of $ 137, 200.00 to the KSAC; wreckage fees of $40,000.00 to Ontime Haulage & Wrecking Ltd. to tow the motor vehicle to the claimant's premises on Arnold Road, and $10,000.00 to Grant's Locksmith to create a duplicate key for it. The motor vehicle was appraised by MSC McKay Jamaica Limited at a cost of $10,296.67, and the market value was assessed at $600,000.00, with a forced sale value of $530,000.00. Two offers to purchase the motor vehicle were received and the amount of $705,000.00, being the higher of

the two was accepted by the claimant. Bailiff fees paid to Mrs Norma Mullings amounted to $50,000.00. Copies of an invoice and Vehicle Seizure Form from KSAC, a receipt from Ontime Haulage & Wrecking Ltd., a receipt from Grant's Locksmith; a valuation report and receipt from MSC McKay Jamaica Limited; and an invoice from Mrs Norma Mullings, are exhibited by her.

19. According to Ms Fearon, based on the Bill of Sale, she believes that the claimant is entitled to apply the proceeds of sale of $705,000.00 towards the legal costs and expenses associated with the repossession of the motor vehicle as well as the costs incidental to its sale, with the balance being applied to "all the moneys and liability secured." The net proceeds therefore available to apply to the 1st defendant's liability is $457,503.33.

Affidavit of Tyrone Mullings

20. In his affidavit filed on April 12, 2024, Mr. Mullings says he and his wife Norma Mullings are licensed bailiffs. By letter dated June 9, 2023, the claimant requested that his wife repossess a 2013 Mitsubishi motor vehicle. Several attempts to locate both the vehicle and the 1st defendant were unsuccessful. He eventually reached the 1st defendant by telephone and was advised by him that the vehicle was at the KSAC Pound as one of his employees had parked it illegally along Churchill Avenue and it was removed and impounded by the KSAC. He visited the KSAC Pound and saw the vehicle in an area where it was blocked in by other vehicles, leading him to believe that it had been there for a considerable amount of time. He visited the KSAC office on Kings Street and was informed that for the claimant to obtain the vehicle, it needed to prove it held a lien over it and pay the poundage fees.

21. He advised Ms. Fearon of the requirements of the KSAC and was provided with the required documentation and the storage fees of $ 137,200.00. He was asked by the KSAC to produce his driver's licence; he paid the storage fees, received a

receipt from the KSAC, and the motor vehicle was released to him, as the representative of the claimant. As there was no key for the vehicle, he engaged Ontime Haulage & Wrecking Ltd to tow the vehicle to the claimant's property on Arnold Road. All of this took place on September 14, 2023.

22. He did not take the motor vehicle to the KSAC Pound and the seizure document from the KSAC does not say that he did. He believes his name is on the document as the person to whom the vehicle was released. He also believes the document was backdated to December 6, 2022, to reflect the date of seizure.

The 1st defendant's evidence in response to the application

23. In an affidavit filed on March 13, 2024, the 1st defendant in response to Ms Fearon's 2nd affidavit alleges that the court order made on February 29, 2024, instructed the claimant, through its attorney-at-law, to devalue and sell his 2013 Mitsubishi motor vehicle. He says the KSAC Vehicle Seizure Form, states that the motor vehicle was taken to the KSAC Pound by the bailiff, Mr Mullings, and this was done months before the claim was filed. He says this document shows that the claimant knowingly lied. He also alleges that the valuation report prepared by MSC McKay was tampered with.

24. In a further affidavit filed on April 15, the 1st defendant says that the motor vehicle is registered in the name of the 2nd defendant who was not served, and the claim has nothing to do with him. He continues to allege that the valuation report done by McKay was tampered with and manipulated, and that the court gave the claimant the "idea" to devalue and sell his vehicle.

Analysis and discussion

Should summary judgment be granted in the claimant's favour?

25. The first issue to be determined is whether summary judgment should be granted in the claimant's favour on the claim and the counterclaim. CPR 15 provides the procedure by which the court may decide a claim or a particular issue without a trial. CPR 15.2, on which the claimant relies for summary judgment on the claim and the counterclaim, reads as follows: -

> "The court may give summary judgment on the claim or on a particular issue if it considers that:
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> a) the claimant has no real prospect of succeeding on the claim or the issue; or
> b) the defendant has no real prospect of successfully defending the claim or the issue."

26. The following non-exhaustive list of principles, which the court considers on an application for summary judgment, were helpfully identified by Master C Thomas (Ag), as she then was, in **Demetrius Seixas v Tricia Madix Blair [2022] JMSC Civ 103,** and relied on by the claimant: -

> "i. The case must be more than just arguable; however, it does not require a party to convince the court that his case must succeed (**International Finance Corporation v Utexafrica SPRL [2001] EWHC 508**, relied on by Simmons J (as she was then) in **Cecelia Laird [2012] JMSC Civ 157**).
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> ii. The burden of proof is on the applicant to prove that the other party's case has no real prospect of success (**Island Car Rentals v Lindo 2015 JMCA APP 2: Cecielia Laird**).
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> iii.Where the applicant establishes a prima facie case against the respondent, there is an evidential burden on the respondent to show a case answering that which has been advanced by the applicant. A respondent who shows a prima facie case in answer should

ordinarily be allowed to take the matter to trial (**Blackstone's Civil commentary 2015, para 34.11**).

iv.The court will be guided by the pleadings as well as the evidence filed in support of the application (**Sagicor Bank v Taylor-Wright [2018] UKPC 12**).

v.The court must exercise caution in granting summary judgments in certain cases, particularly where there are conflicts of facts on relevant issues which have to be resolved before a judgment can be given (**Bolton Pharmaceutical Co 100Ltd v Doncaster [2006] EWCA Civ 1661; Cecilia Laird**).

vi.Summary judgment is not usually granted in negligence cases (**Commonwealth Caribbean Civil Procedure 2nd ed; Island Car Rentals Ltd v Lindo [2015] JMCA App 2**)"

27. The burden is therefore on the claimant to show that it has a prima facie case against the 1st defendant and that the 1st defendant has no real prospect of succeeding on his defence to the claim and on his counterclaim. As has been seen, the claimant's primary claim is for a breach of the Loan Agreement, and claims that the amount outstanding on the loan as of August 1, 2023, is $5,298,110.68. Interestingly, the claimant also claims default interest of 0.05% per day. Ms Fearon in her Affidavit filed on December 18, 2023, says her exhibit 6 is the 1st defendant's loan account and it reflects the amount of $ 5,270,925.76, owed by him. This figure, she says, includes default interest. I have, however, carefully read and reread, both the Loan Agreement and the Bill of Sale and see nothing in either document, entitling the claimant to claim default interest. In fact, in neither the pleadings nor in any of her affidavits, has Ms Fearon alleged that it was a contractually agreed term in the Loan Agreement and/or the Bill of Sale, that default interest of 0.05% daily (or 18.25% annually), would accrue on any outstanding amounts, owed by the defendants. Despite saying in paragraph 26 of her Affidavit filed on December

18, 2023, that **exhibit 6**, shows all contractually due interest; the only interest the Loan Agreement refers to, is the standard interest of 13.49% annually .

28. Clause 2 of the Loan Agreement is the only clause in that document which refers to interest. It is important to set it out in full. It reads as follows: -

> "2. (1) The Borrower shall re-pay the Lender the said Loan [of $3,375,000.00], together with interest at a variable interest rate with the initial rate being (13.49%) per annum on the said Loan or any part thereof as remains unpaid by:
>
> (a) 1 payment of $375,000.00 on 16 June 2014, followed by 84 monthly payments of $57,060.65, commencing on 16 July 2014 and thereafter on the same day on each succeeding month provided that where such day is Saturday, Sunday or a public holiday, the payment shall be made on the first business day thereafter; and
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> (b) a bullet payment of $944,759.54 due and payable at the same date as the final monthly instalment payable pursuant to clause 2(1)(a) hereof.
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> (2) The instalment payments shall be appropriated first to interest accrued or due and payable and thereafter to the reduction of the principal sum.
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> (3) Any interest payable hereunder shall be paid at the yearly rate aforesaid both after as well as before and notwithstanding any judgment and shall be paid gross and without any deduction other than any tax deduction the Borrower may be legally obliged to make in which event the Borrower shall give the Lender such documents or certificates relating thereto as the Lender may from time to time require. Any instalment paid during a period in which the Borrower would be obliged to deduct as aforesaid shall be appropriated as

though such deduction had been made and the Borrower shall be given such documents or certificates aforesaid. “

29. As for the Bill of Sale, clause 17, refers to a fee levied on late payments: -

> “(17) The Lender shall be entitled on each occasion when an instalment hereunder is not paid within thirty (30) days of the due date to charge and collect a fee equal to 5% of the unpaid instalment (or a fee calculated at such other rate as shall be prescribed by the Lender from time to time but in any event not less than $1,000).”

30. It is trite to observe that default interest rate in loan financing is an interest rate applied by a lender which is higher than the standard interest rate charged to a borrower who fails to make agreed payments; or who otherwise defaults on the loan agreement. It is typically charged on the unpaid amount from the due date up to the date of the payment of the unpaid amount. A lender cannot impose default interest unilaterally. Provision for its imposition must be expressly stated in the loan agreement. Neither clause 2 of the Loan Agreement nor clause 17 of the Bill of Sale, deal with default interest. Notwithstanding this, the defendant’s statement of account, relied on by the claimant to support its claim, and which bears a statement date of December 4, 2023, refers to and shows default interest of 18.25% annually being applied to the defendants’ account.

31. Ms Fearon in her 2nd Affidavit, discloses that the motor vehicle has been repossessed and sold, leaving a balance after deducting various costs and expenses of $457, 503.33, to be applied to the defendant’s indebtedness; but she does not say what is the current balance owed on the loan, after applying this sum of money. Furthermore, if I am right, and the 18.25% default interest ought not to have been applied, then the entire statement of account would be inaccurate. The 1st defendant’s defence is that he has repaid the loan. I cannot, in the circumstances say, that the claimant has made out a prima facie case against the 1st defendant, for the amount claimed.

32. Ms Fearon's evidence that the motor vehicle has been repossessed and sold to a third party, stymies any success the 1st defendant could have on that aspect of his counterclaim in which he seeks a transfer of a clean title for the motor vehicle. Her evidence raises serious concerns about the claimant's actions relative to the repossession and the sale. In her affidavit filed on December 18, 2023, she makes no mention of the repossession, yet, based on her 2nd affidavit filed on March 11, 2024, and that of Tyrone Mullings, it is evident that from September 14, 2023, she was aware that the motor vehicle was repossessed. Despite this knowledge, the claimant has made no attempt since that date, to amend the claim to reflect the fact of the repossession of the vehicle. The disclosure of this important fact only came through the oral submissions of counsel Mr McDermott in response to questions from the court at the hearing on February 29, 2024. This is what prompted the order for affidavit evidence to be filed on the whereabouts of the motor vehicle. That order did not direct the claimant to sell the motor vehicle, much less at an undervalue.

33. I find it disturbing that, according to Ms Fearon, the motor vehicle was sold on February 29, 2024, the very day that the claimant's application was being argued before the court, but the court was not informed that this event was taking place. It is significant that the claim as it currently stands, still requests an order for the defendants to return the motor vehicle and seeks damages for detinue and conversion. It also continues to claim the sum of $5,298,110.68 as damages for breach of contract.

34. The Security Interest in Personal Property Act (SIPPA) was brought into force on January 2, 2014. By virtue of section 66(2) and the Schedule thereto, Part III and section 36 of the Hire Purchase Act (HPA) were repealed. This means that since January 2, 2014, it is the SIPPA which governs the conduct of a lender relative to the repossession and sale of property secured by a Bill of Sale. The Bill of Sale in this matter is dated June 16, 2014, and as such, is governed by the relevant

provisions of the SIPPA, despite clauses in it which refer erroneously to sections of the HPA, which were repealed by the SIPPA. One such clause is recital number 3 which refers to sections of Part III of the HPA. Under sections 37 of the SIPPA, prior to disposing of repossessed property, a lender is required to give 7 days' notice to the debtor, any other person who is known by the secured creditor to be an owner of the secured property, and any creditor or other person with a subordinate interest in the security. There is no evidence before the court, that notice of the sale was given by the claimant to the defendants.

35. If section 37 of the SIPPA was not complied with, the third party who purchased the motor vehicle is protected by section 42, if the motor vehicle was purchased in good faith and for value. Section 42 provides that where a secured creditor disposes of secured property to a purchaser who takes possession of the secured property for value and in good faith, such acquisition is free from the interest of the debtor whether or not the statutory requirements have been complied with by the secured creditor and all obligations are taken to be performed. This underscores the observation made earlier that the sale may have stymied any success the 1st defendant could potentially have on that aspect of his counterclaim, in which he seeks a transfer of a clean title for the motor vehicle.

36. It seems to me, that the issues that arise in relation to the default interest and the repossession and the sale of the motor vehicle, require resolution at a trial, at which time it will be determined, for example, if section 42 protects the third party who purchased the motor vehicle. It therefore is inappropriate to grant summary judgment to the claimant on the claim.

37. As to the counterclaim for specific performance and defamation, there is nothing that the 1st defendant has pleaded which supports a claim for defamation. He therefore cannot succeed on it. Since the effect of a claim for specific performance is essentially that the claimant is required to specifically perform the Loan Agreement according to its terms, I will not grant summary judgment in relation to

this remedy, given the issues raised above. In the result, summary judgment will be granted in relation to the aspect of the counterclaim seeking damages of $5,298,110.68 for defamation.

Should the defence be struck out?

38. For the same reasons outlined for not granting summary judgment on the claim, the defence will not be struck out.

Costs

39. At the start of the adjourned hearing on February 29, 2024, the 1st defendant accused the court of all sorts of scurrilous and false allegations, said he would not participate in the hearing and left the zoom platform. This conduct is reprehensible. CPR 64.6 provides that as a general rule, the successful party is entitled to its costs. The rule however allows the court, if it decides to award costs, to consider the conduct of the parties both before and during the proceedings. The 1st defendant has largely been successful on the claimant's application, however in light of his conduct on February 29, 20204, there will be no order for costs in his favour. My concern in relation to the claimant's conduct relative to the sale of the motor vehicle, on the very day of the hearing on February 29, 2024, without advising the court, also leads me to conclude that it too shall have no order made in its favour in relation to costs.

Orders

40. In the circumstances, I make the following orders: -
    a) Summary judgment in favour of the claimant on the claim is refused.
    b) Summary judgment in favour of the claimant on the counterclaim for a clean title to the 2013 Mitsubishi L200 motor vehicle is refused.
    c) Summary judgment in favour of the claimant on the counterclaim for damages for defamation is granted.

d) Summary judgment in favour of the claimant on the counterclaim for specific performance is refused.

e) The application to strike out the defence is refused.

f) No order as to costs.

A Jarrett

Puisne Judge