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Shoppers Guide

Second Hand Vehicle Repossession

Owning a used vehicle is quite easy in Fiji – thanks to the growing number of second hand vehicle outlets mushrooming across the country – setting up a grand platform for the sale of used vehicles.

It is amazing to note the manner in which some of these second hand dealers market their used vehicles – going to the extent of assisting the consumers by organizing finances in the form of linked loan schemes. This gesture is received positively by many potential buyers – there is excitement and enthusiasm and in this spirit, the dealer ends up selling his used vehicles.

Little care is shown from the buyers' side to thoroughly inspect the condition of the used-vehicle, he or she is buying. Many of them don't even care to check how much interest they will be paying or even know or fully understand the terms and conditions of their purchase agreement.

The used vehicle may be having defects, faults, clocked –mileage or simply the questions about the identity and ownership of the used vehicle, which means that you have purchased a vehicle which is still registered under someone else's name.

Going by the cases seen at the Consumer Council of Fiji, one of the critical problems raised as a matter of concern is when some buyers face repossession of the used vehicles by none other than the second-hand dealers themselves who facilitate linked loans for the buyers. The issue here is about the *manner* in which the vehicles are repossessed.

Some second hand dealers have used muscle power or mafia-style tactic to repossess the very vehicles they sell. Thus, the buyer ends up losing not only the vehicle but his money as well.

Due to financial hardships and unforeseen circumstances, some buyers tend to default in their payments – this is a fact and the vehicle can be repossessed but in a proper and lawful manner.

The complaints received by the Council reflects repossession of vehicles by dealers without a prior notice to the buyer, seizing vehicles at odd hours, seizing the vehicle when repayments are being made in installments, denying customers from making payments after repossession notice is issued and psychologically-torturing customers to take the vehicle to the car dealers' yards. Such practices by certain used-car dealers is unethical and unjust, especially in the present time when consumers are becoming more empowered through the power of education.

Case Study 1

Mr and Mrs. Chand purchased a vehicle from a well-known second hand car dealer but because of financial hardship, they had defaulted two payments. On 28 July 2012, three representatives of the car dealer turned up at their residence without any prior notice to the Chands, to seize their vehicle. They demanded for the car key. Mr Chand informed them that they would be making a payment in the next 2 days. The second hand car dealer's staffs returned and came back with two officers from a certain security agency in the middle of the night on a weekend to repossess the vehicle.

The Council questioned the timing and the manner in which the dealer carried out the repossession of the vehicle – repossessing the vehicle at midnight and using intimidating tactics by getting security officers to threaten the consumers, was just unacceptable.

Case Study 2

Mrs. Betty bought a vehicle from a second hand car dealer, entering into a three year Bill of Sale contract on a monthly installment of \$500.61. She had never missed any payments; her payments were up to date in accordance with the agreement signed with the dealer.

It was questionable when despite Mrs. Betty making timely repayments, one fine day; she was shocked when some officials from an unknown company (not her dealers) showed up at her residence asking for the keys of the vehicles.

She was informed they were there to repossess the vehicle.

Mrs. Betty came to know that this particular company which repossessed the vehicle was a subsidiary company.

She lodged a complaint with the Council which raised the following question: Without a default in repayment and without giving any reasonable notice to Mrs. Betty - why was the repossession carried out?

A credit provider cannot begin enforcement proceedings against a borrower to recover the repayment of money or take possession of, sell, appoint a receiver for or foreclose in relation to property subject to mortgage, unless he or she is in default.

The buyer should have been given prior notice so there is reasonable time and opportunity to come up with the repayment. In Mrs. Betty's case, obviously it amounts to wrongful and, malicious repossession by the car dealer when all past dues were duly met and satisfied by Mrs. Betty and the current due for the month was also paid.

From Council's perspective, it was a wrongful repossession because the second hand car dealer had other financial issue with Mrs Betty in relation to tenancy.

Traders need to respect consumers' rights and at least inform them first before repossessing their vehicles.

Consumers are advised to be responsible in handling their payments. They are reminded to seek restructure of their hire purchase accounts if facing financial hardships.