

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF RANDBURG
HELD AT RANDBURG

CASE NO: xxxx/2014

IN THE MATTER BETWEEN :

XYZ BANK

PLAINTIFF

AND

MR POOR MAN

DEFENDANT

DEFENDANT'S PLEA

Kindly take notice that the Defendant pleads as follows to Plaintiff's Particulars of claim:

AD SPECIAL PLEA – RECKLESS CREDIT

1.

The Defendant admits that he has entered into the agreement with the plaintiff and is in default of such agreement.

2.

The Defendant pleads specially that the agreement was reckless in terms of section 80 of the National Credit Act 34 of 2005 in that, at the time the agreement was made, plaintiff (the credit provider) failed to conduct an assessment as required by section 81(2)(iii)

2.1

The Defendant earns R150 000 per annum. The Defendant's rent is R4500 per month. The Defendant's car instalment is R2500 per month. The Defendant's furniture instalment is R2000 per

month. The Defendant's monthly petrol is R1500. The Defendant has R2000 left from his monthly salary, such amount being used for living expense. The Defendant therefore has no disposable income left to pay the Credit Card. The full amount of the credit card, such amount being R50 000 has already being used.

3.

Alternatively, if it is found that plaintiff had conducted an assessment as required by section 81(2), plaintiff entered into the credit agreement with defendant despite the fact that the preponderance of information available to plaintiff indicated that defendant did not generally understand or appreciate her risks, costs or obligations under the proposed credit agreement.

WHEREFORE defendant claims that plaintiff's claim be dismissed and for

3.1

The setting aside of all or part of defendant's rights and obligations under the agreement, as the court determines just and reasonable in the circumstances;

3.2

Alternatively, the suspension of the force and effect of the agreement for a period of two years.

AD PLEA ON MERITS

A plea on merits must still be included. This entails a very clear and concise answer to each of the Plaintiff's paragraphs in their particulars of claim. Admit or deny or confess and avoid.

I'm not doing a plea on merits here, the purpose was to show case a Special Plea of Reckless Credit..

The plea on merits must also end with the obligatory prayer followed by:

Defendant's physical address

Defendants Postal address

Defendant's contact details including email..