

**THE BARBADOS CONSUMER CLAIMS TRIBUNAL  
JUDGMENT**

**In the matter between:**

**KIMBERLEY RUSSELL-BISHOP**

**Complainant**

**AND**

**IAN HAREWOOD**

**Respondent**

**QUORUM**

**Fiona Hinds  
Jamila Burgess  
Livingstone Trotman  
Anton Lovell**

**Chairman  
Deputy Chairman  
Member  
Member**

**HEARING DATE**

**February 20<sup>th</sup>, 2019**

**DATE OF DELIVERY**

**February 20<sup>th</sup>, 2019**

## **APPLICATION**

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- 1.** This Complaint has been brought by Kimberley Russell-Bishop of Maynard's Road, St. Peter, as complainant against Ian Harewood as Respondent for refund of the amount of one thousand dollars (\$1,000.00) being the amount paid to the respondent for the production of one photo-book album, two hundred and fifty (250) photographs and a small video with a clip of the most important part of the wedding. The Complainant's claim for redress is made under sections 6, and 8, 29 and 31 of the Consumer Guarantees Act, Chapter 326 E of the Laws of Barbados.
- 2.** The matter was heard on February 20<sup>th</sup> 2019, with both the Complainant and the Respondent giving sworn testimony.
- 3.** The Complainant is represented by the Office of Public Counsel and Mr. Harewood represented himself.
- 4.** The Tribunal considered the evidence and rules as follows:

## **PRELIMINARY POINTS**

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- 5.** Based on the evidence, the Complainant qualifies as a consumer under the Act and the Respondent qualifies as a supplier.

*Under section 2 of the Act, "consumer" means an individual who acquires from a supplier goods or a service of a kind ordinarily acquired for personal, domestic or household use or consumption and does not acquire the goods or services or hold himself out as acquiring the goods or services for the purpose of resupplying them in trade or consuming them or it in the course of a process of production or manufacture or in the case of goods does not acquire them or hold himself out as acquiring them for the purpose of repairing or treating other goods or fixtures on land".*

*Under section 2 of the Act, "supplier" means a person who in trade supplies goods to a consumer by transferring the ownership or the possession of the goods pursuant to a contract of sale, exchange, lease, hire or hire-purchase to which that person is party; or transferring the ownership of the goods pursuant to a gift from that person or supplies a service to a consumer."*

## **SUMMARY OF THE FACTS**

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**6.** The Complainant's evidence is that on the 9<sup>th</sup> day of September 2016 she contracted the Respondent to attend her wedding and take photographs which were to be given to her in the form of a photobook containing 250 photographs and a video. The Complainant testifies that the agreed cost of the photography and the photobook and video is \$1,320.00.

**7.** The Complainant states in her evidence that pursuant to the contract, she paid the Respondent a deposit of \$600.00 on December 8, 2016 the date of her wedding rehearsal. On that date, the Complainant observed that the Respondent was unaccompanied and did enquire of him whether he was able to do the job on his own. The Respondent acknowledged that he normally has an assistant but that she was ill but that he could do the work on his own.

**8.** The Complainant states that following the wedding rehearsal and the Respondent's assurance that he could provide the photography service on his own, she proceeded with the contract. As such on her wedding day on December 10, 2016 she noted that the Respondent did not have any assistance.

**9.** Subsequently on December 31 2016 she contacted the Respondent for the photobook, photographs and the video and was informed that they would not be ready before January 14, 2019.

**10.** Following delays, the Respondent delivered the photo-book album and video to the Complainant on May 18, 2017 and the Complainant paid the sum of \$400.00 on account of the balance.

**11.** In her evidence, the Complainant stated that when she watched the contents of the DVD she noted that there was no motion video of her wedding but instead the DVD comprised a compilation of some of the photos taken at the Wedding ceremony and reception. Upon enquiring as to the remaining photos, the Respondent advised that he was having some challenges and would deliver same at a later date. On May 19, 2017 he delivered a DVD but this DVD was also incomplete.

**12.** In her evidence the Complainant produced copies of the photographs of the Wedding ceremony and reception which photographs were examined by the Tribunal. The Tribunal noted that many of the photographs were either over exposed or grainy due to poor lighting.

**13.** In response, the Respondent's evidence is that he contracted with the Complainant to provide her with photo album rather than a photo-book album and a DVD which would include the remaining photos not chosen for the photo album along with some moving clips but not a motion video. The Respondent stated that there was a technical hitch with his camera which caused the flash to be out of sink. As a result, some of the photos were dark. Consequently, the Respondent unilaterally decided to upgrade the package chosen by the complainant to a photo-book album rather than a photo album.

**14.** The Respondent on being questioned by the Tribunal acknowledged that due to poor lighting some of the photographs were of inferior quality. These photographs were put into evidence and accepted by the parties.

## **ANALYSIS**

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**15.** The Tribunal accepts the evidence of the Complainant regarding the quality of the photographs and noted that the photography was not in compliance with the CGA.

**16.** The Tribunal also accepts that the Complainant paid to the Respondent the sum of \$1,000.00 on the understanding that she would receive a photobook.

**17.** The Tribunal notes that there was no written contract specifying what the Respondent agreed to provide.

**18.** The Tribunal finds that the quality of the photographs was not consistent and that some of the photographs were of poor standard.

## **JUDGMENT**

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The Tribunal orders that the Respondent, Mr. Ian Harewood, pays the sum of six hundred dollars (\$600.00) to the Complainant, Mrs. Kimberley Russell-Bishop on or before the 31<sup>st</sup> March, 2019.

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Fiona Hinds Q.C.  
**Chairman**

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Jamila Burgess  
**Member**

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Livingstone Trotman  
**Member**

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Anton Lovell  
**Member**