

## **INTEREST ON HIRE PURCHASE AND CREDIT AGREEMENTS – Gorata Dibotelo (Former Associate at Armstrongs)**

Hire Purchase and Credit Agreements are used when goods are sold subject to the condition that the ownership in such goods shall not pass merely by the transfer of the possession, and that the purchase price is to be paid in instalments and an interest rate is charged on the goods. These types of agreements are most common in furniture and clothing store purchases.

The application of agreements concluded under the Hire Purchase Act (the Act) is limited to movable goods with a purchase price that does not exceed P4 000.00, a relatively insignificant sum in today's times. The Act does not provide maximum interest charges which may be applied. This leaves it open for the credit provider to charge any amount of interest they desire.

The Non-Bank Financial Institutions Regulatory Authority (Micro Lending) Regulations which do not define a micro lender appear to regulate credit agreements.

These Regulations do not clearly provide for a maximum interest rate. However, there are certain provisions contained in the Regulations, which may be applicable. Regulation 10 refers to disclosure of salient features.

Regulation 10(3) provides as follows:

***“The aggregate of the penalty amount referred to in sub regulation (1h) and the additional costs, excluding identifiable legal fees shall not exceed five per cent of the outstanding principal amount per month with a maximum not exceeding the outstanding principal amount”.***

Regulation 10(1h) in particular refers to, *“the circumstances under which penalties would be charged, the amount of the penalty, any additional costs that may have to be paid and the method of calculating the penalty.”* Despite repeated reference to payment of penalties, the term penalty is not defined. Reference to a penalty may be interpreted as reference to interest that is payable to a micro lender for default in payment.

To date, no clear description has been documented. There has also not been any judicial decision on the issue. However the above provisions appear intended to restrain micro lenders from charging exorbitant penalties and interest to borrowers.

Many consumers may find themselves having to pay unreasonably high interest rates for both Hire Purchase and Credit Agreements. Public interest would certainly dictate that interest rates should be reasonable. There is a clear lacuna in the law in this regard that needs to be clarified.