

MALTA

CONSUMER CLAIMS TRIBUNAL

In the Acts of Claim CCT 106/24/F

Erindit Metani

vs

GO plc

Today, the 16th March 2026

The Tribunal:

Having seen the Notice of Claim filed by the applicant on the 15th May 2024;

Having seen the Reply filed by the defendant company on the 11th June 2024;

Having seen the Counter-Claim filed by the defendant company on the 11th June 2024;

Having seen the applicant's Reply to the Counter-Claim filed on the 28th June 2024;

Having seen the order of the 1st July 2024 providing that these proceedings be held in the English Language;

Having seen all the acts of the Claim;

Having seen that the Claim was put-off for judgement.

Considered:

Whereas through the instant proceedings, the applicant is requesting that the defendant company is condemned by this Tribunal to pay him the sum of €1,169 as a refund for a Samsung S22 Ultra 5G Dual 128GB mobile phone purchased from defendant company on the 31st August 2022 which he claims has a defective battery.



He explains that in November 2022 he noticed that the battery does not function properly and took the mobile phone to GO's Paola outlet where it was inspected. He complains that he was not given an adequate remedy.

Whereas succinctly, the defendant company rebuts that the applicant's Claim is unfounded in fact and at law. It refers to an inspection carried out by Phonebox, San Gwann, which concluded that the mobile phone was working properly. Pertinently, it states that in actual fact, the only amount paid by the applicant was €269.

Whereas the defendant company also filed a Counter-Claim, through which it is requesting that the applicant be condemned to pay it the sum of €1,026.38, representing amounts owing over his account, particularly the payment due in relation to the purchase of the mobile phone at issue under the 'GO Easy Buy' scheme.

Whereas the applicant filed a Reply in which he states that he should not be condemned to pay any amounts to the defendant company because he had requested that his mobile services be terminated and also because the equipment supplied, that is the mobile phone at issue, is defective.

Considered:

The applicant's complaint on the mobile phone is that when for example the display shows a 35% charge, when the phone is plugged to a charger, the display immediately indicates 100%. A salient point, which does not appear to be contested by both parties, is that the mobile phone at issue was still covered by the manufacturer's warranty when the fault was first reported by the applicant. Notwithstanding this, defendant company insisted that the phone should be repaired rather than replaced and in fact, took it over for repairs, which took approximately three weeks. Applicant complains that following its return from repairs, the phone still manifested the same problems and actually started going off and restarting in an unsolicited manner.

The applicant's version of events was also confirmed in the testimony of his wife Elize Metani, who was the person actually using the mobile phone at issue.

Carlo Ragonesi, on behalf of Phonebox Malta Company Limited testified and confirmed that Phonebox supplies Samsung mobile phones to the defendant company and that the mobile phone at issue was passed onto it due to the alleged fault. Since the phone was under warranty, it was passed onto MaxiQuartz which is



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the authorised Samsung repair centre in Malta. MaxiQuartz eventually returned the phone stating that no fault was identified.

Matthew Cassar and Luana Grech, both employees of the defendant company were produced by the applicant as witnesses but both claimed not to remember any specifics on this case.

Defendant company produced an affidavit drawn up by Marlon Mercieca, Team Leader. He stressed that with reference to applicant's mobile telephony subscription, early termination penalties were applicable and provided a breakdown in relation to the Counter-Claim: €179.88 by way of early termination penalty; €538.74 in connection with the GO Easy Buy agreement and the rest are unpaid service bills, that is, €307.76. Mercieca otherwise confirms the narrative that the mobile phone was referred to the supplier and no malfunctions were found.

Whereas the Tribunal has carefully examined the acts of this Claim and finds that the version of events given by the applicant is the more credible of the two. Effectively, both the defendant company and Phonebox know nothing about the interventions and tests carried out on the mobile phone as that task seems to have been entrusted to a third-party entity named MaxiQuartz. No representative of this entity was called as witness by the defendant company in order to detail what inspections were actually carried out on the mobile phone and on what basis was it allegedly certified as being in fit condition. That would have been the best evidence in relation to its line of defence. All the declarations presented by the defendant company and Phonebox as to the inspection on the phone are ultimately unconfirmed hearsay and as such, have no probatory value.

On the basis of the above and through the operation of Article 74 of Chapter 378 of the Laws of Malta, the Tribunal will consider as rescinded the contract of sale of the mobile phone. Thus, the sum of €269 paid upfront by the applicant should be refunded to him. For the same reason, the sum of €538.74 claimed by defendant company in connection with the GO Easy Buy agreement is not due. Given the loss of trust which developed between the applicant and the defendant company in view of the poor service rendered to him in relation to the mobile phone, the Tribunal considers that he had just cause to terminate his commercial relationship with the defendant company. Therefore, the Tribunal will not enforce the termination fee emanating from the defendant company's terms and conditions. On the other hand, the applicant should pay for mobile telephony services which he has received. After making the respective calculations, the Tribunal finds that a balance of €38.76 is due by the applicant to defendant company.



In the circumstances of the case, namely the resistance on part of defendant company to provide an effective remedy in a timely manner, the Tribunal will be making an order against the defendant company to pay the applicant the sum of €200 as moral damages in terms of Article 21(2) of Chapter 378 of the Laws of Malta for the inconvenience suffered.

Since the sale of the mobile phone is being rescinded by operation of this decision, said phone should be returned to defendant company by the applicant.

Therefore, the defendant should pay the applicant the resultant sum of €161.24 upon return of the mobile phone at issue.


Decision:

Therefore, for the abovementioned reasons, in the circumstances, after having seen Chapter 378 of the Laws of Malta, the Tribunal hereby decides as follows:

- 1. Partially upholds both the Claim and the Counter-Claim;**
- 2. Declares the contract of sale relative to the Samsung S22 Ultra 5G Dual 128GB mobile phone between the defendant company and the applicant as rescinded on the basis of non-conformity;**
- 3. Orders the defendant company to pay the applicant the sum of one hundred and sixty-one Euro and twenty-four cents (€161.24) upon return of the Samsung S22 Ultra 5G Dual 128GB mobile phone.**

All costs shall be borne by the defendant company.

Legal interest shall run as from the date of this decision.



Avv. Mattia Felice LL.B., LL.D. (*Melit.*) ECPC-B (Maastricht)
Arbiter