

Spy cam car repossessions illegal



Johannesburg - The decision by banks to let loose bank agents who drive around with camera-equipped vehicles tracking down vehicles where the owners had defaulted on payment was not only against the spirit of the law but also against the letter of the law, said a prominent attorney.

Neil Roets, who is qualified in both South Africa and the United Kingdom to practice law, said the system was unethical and totally illegal because these agents – who are known in the credit industry as tracing agents – were not legally entitled to repossess vehicles.

Roets, who is also CEO of debt counselling firm Debt Rescue, said many hundreds of his clients were on the receiving end of tracing agents "many of whom are little more than gangsters who would lie, threaten and cajole indebted consumers just to lay their hands on the vehicles that the banks wanted to repossess".

"Only a sheriff has the legal authority to repossess a vehicle and he can only do so once a judgement has been delivered and a court order has been issued to repossess the vehicle.

"The spy camera system that is now being used by tracing agents is an infringement on both the legal and the human rights of consumers."

Roets has had a number of run-ins with tracing agents himself when he warned them to stay away from his clients who were under debt review.

"One of them threatened to call the police when my client refused to hand over his car.

"He subsequently called me and when I pointed out to the tracing agent that he was breaking the law, he threatened me personally," Roets said.

“To my certain knowledge not a single one of these tracing agents has ever informed the consumers they were harassing that they had no legal authority to repossess the vehicle. Instead, if they meet any opposition, they threaten to call the police to have the owner of the vehicle arrested.

“In terms of legislation, a tracing agent is permitted to request the driver of a vehicle under dispute to voluntarily hand it over by signing a document in terms of which they voluntarily agree to surrender the vehicle,” Roets said.

Continuous harassment

He pointed out that tracing agents were paid anywhere from R5 000 to R15 000 by banks for repossessing a vehicle.

“If we assume that they bring in five cars a day as has been reported in the media, over a 20-day period this could net them as much as half a million rand,” Roets said.

“By using bank agents with camera-equipped vehicles to do their dirty work, banks can circumvent the whole legal process of going to court and getting court orders.

“It is much cheaper – and probably a lot more effective – to have these cars cruising the streets and harassing South Africans when they were on their way to work or parked in shopping malls.”

All clients of Debt Rescue are fully advised of their legal rights when they are placed under debt review, including the fact that tracing agents are not permitted to repossess their vehicles without their written permission.

“We also advise other credit grantors to whom our clients may owe money that the individual is under debt review.

“Despite that, we get a never-ending string of complaints from them that they are continuously being harassed by debt collectors and tracing agents who attempt to seize their property without the necessary court orders.”

According to media reports, the spy camera vehicles are equipped with printers that can print out a court order once the tracing agent had managed to intimidate a driver to stop.

“That ‘court order’ is not worth the paper it has been printed on because in the real world, the document has to be issued by a magistrate and needs to carry the official stamp of the court.

“A printed facsimile is utterly illegal and carries no weight whatsoever,” Roets said.

Bank-sponsored intimidation

The system known as the International Vehicle Identification Desk (Ivid) system has evidently been in use for more than a year and carries the blessings of the non-governmental organisation Business Against Crime and the police.

The company’s owner, Lee Dutton, told an afternoon newspaper that the system recognised vehicle number plates and compared it to a company server that held the number plates of “wanted” vehicles.

He admitted that there had been some complaints of tracing agents pulling drivers off the road but added that his company did not approve of that.

They usually followed a driver to a point where the vehicle was stationary and then repossessed it.

WesBank spokesperson Rudolf Mahoney was quoted as saying that thanks to the system about 90 cars a month were recovered.

He said number plate details that were recovered by the spy camera were verified by the Ivid data base as well as the police and "other" data bases to check whether the vehicles were the subject of a legal claim or had been stolen or fraudulently acquired.

Roets said the fact that the system could evidently determine whether a vehicle had been stolen or not would suggest it had access to secure police data bases, which was an entirely different concern.

"We have numerous concerns with the system in that there are reports that some of the tracing agents had used blue lights to pull over vehicles and that in other cases they had forced cars off the road.

"The entire system smells to high heaven and the public should simply refuse to accept this kind of bank-sponsored intimidation," Roets said.