

The complaint

Mr M complains that Vanquis Bank Limited rejected his claim under S 75 Consumer Credit Act 1974 in respect of repairs to a property.

What happened

In August 2020 Mr M bought a house along with another as joint tenants. The house cost £90,000 and Mr M paid the agent £896 which he describes in his complaint form as a deposit. He used his credit card for this deposit. Mr M says they discovered a floor was rotten and he made a claim under S 75 for the cost of repairing the damage.

Mr M says he only paid £2,896 towards the cost of the property and so his claim falls with the financial limits set down in S 75. Vanquis didn't agree and he brought his complaint to this service where it was considered by one of our investigators. She concluded that the claim wasn't covered by S 75. She referred to the legislation which states:

Subsection (1) does not apply to a claim— (a) under a non-commercial agreement, or (b) so far as the claim relates to any single item to which the supplier has attached a cash price not exceeding £100 or more than £30,000

She noted the legislation refers to the cash price of any single item, not to a part price or to a deposit. The contract was for a property with a price of sum £90,000 and that is the value of the single item referred to by S75.

She appreciated Mr M said he only owned a share of the property which is less than £30,000, however, she didn't believe she had seen sufficient evidence to demonstrate that was the case. Mr M didn't agree and said he didn't own the whole house and he provided a letter from the joint tenant that the £2,986 received from Mr M was a deposit/guarantee towards the accommodation and it added that Mr M also paid rent.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

This complaint has been submitted as a claim under section 75 of the Consumer Credit Act 1974. Section 75 offers protection to customers who use certain types of credit to make purchases of goods or services. Under section 75 the consumer has an equal right to claim against the provider of the credit or the retailer providing the goods or services, if there has been a misrepresentation or breach of contract on the supplier's part.

For section 75 to apply, the law effectively says that there has to be a:

- Debtor-creditor-supplier chain to an agreement *and*
- A clear breach of contract or misrepresentation by the supplier in the chain.

The facts of this matter are a little unusual. The transfer of title shows that the property was

acquired under a joint tenancy which means that it is owned equally between Mr M and the other party. However, Mr M claims that he only paid a relatively small part of the £90,000 to acquire the property, even though he owns a half share. It is also a little unusual that he should pay for the repairs, if, as he claims he only owns a very small share of the property. I would have expected the alleged main owner to bear most, if not all of the cost..

However, the key issue is that, as our investigator has explained, the determining factor for the financial limits of S 75 is the cash price from which the goods are sold. It does not refer to how that cost may be shared out between different parties. The key question is does the cash price of the goods exceed £30,000? In the case the answer to that question is yes and so S75 does not come into effect.

Furthermore, it is not clear that the required debtor-creditor-supplier (d-c-s) link is in place. The solicitors' summary show that £800 (not £896) was paid to the agent and this went towards the £90,000 due for the property. Therefore, it would appear that the money was payable to the seller but was actually paid to the agent as an intermediary. I have not considered this in detail, given I believe the claim fails for other reasons, but I think it quite likely that d-c-s link has been broken.

So, while I have every sympathy with Mr M I do not consider I can uphold his complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 9 September 2021.

Ivor Graham
Ombudsman