

The complaint

This complaint has been brought on behalf of the estate of Ms J by the executor, who I'll refer to as Mr E. Mr E says Santander UK Plc has been unfair in the way its dealt with the mortgage account. He asks that Santander accepts repayment of the mortgage from him and pays compensation for the costs of legal advice.

What happened

Ms J had a mortgage with Santander. The mortgage was taken out about 30 years ago in joint names with Ms J's partner at the time (who I'll refer to as Mr P). Mr E says they separated some years ago and Ms J made all of the mortgage payments. Mr E says Ms J tried to transfer the mortgage and property title into her sole name, but had difficulty locating Mr P.

Ms J died in 2021. There's a dispute over ownership of the property which will be dealt with by the courts. Mr E says Santander has been unfair in the way its dealt with him. In particular, that it accepted and then returned his payments to redeem the mortgage.

Our investigator said it was reasonable for Santander to wait for the outcome of the legal dispute about the ownership of the property. She said it wasn't reasonable to ask Santander to compensate Mr E for his legal costs.

Mr E didn't agree. He said Santander had accepted the redemption money and confirmed the mortgage was redeemed. He said the legal case they'd submitted to the court was on the basis the mortgage was repaid, and Santander returning the payment had caused problems and increased their legal costs.

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.

While I've read and taken what Mr E has told us into account, I won't describe the circumstances here in any more detail than necessary. I do appreciate how upsetting this has been for Mr E and Ms J's family.

Title to the security property was held by Ms J and Mr P as joint tenants. Where this is the case and one of the parties to the mortgage dies, Santander's usual process is to remove them from the mortgage account. It removed Ms J from the account in January 2022.

Mr E told Santander in mid-February 2022 that Mr P had separated from Ms J many years previously and couldn't be traced. He said he was concerned about payments being missed and had funds available to repay the balance.

Santander added Ms J's name back onto the mortgage account. It issued a redemption statement to Mr E, who made payments to repay the mortgage on 5 April 2022.

Santander returned the payments on 14 April 2022. It had become aware of Mr P's

whereabouts and that there was a dispute related to the property. It removed Ms J's name from the account. Santander says it won't take action to redeem the mortgage until the dispute about the ownership is resolved. It says it can't get involved in the dispute.

Mr E says Santander returning the funds caused problems with their legal case, which had been submitted to court on the basis he'd repaid the mortgage. He says Santander shouldn't have allowed him to make the payment and then backtrack as this made matters more difficult and increased legal costs.

I'm sorry this caused additional difficulties for Mr E, at an already difficult time. But I don't think Santander acted unfairly. It acted on the information it was given by Mr E by in mid-February 2022, that Mr P couldn't be traced, and didn't have any reason not to accept this as correct. Once it had contact details for Mr P and was aware of the dispute about the property title, it put the account into the position it would have been in if it had known this at the outset: it returned the payments Mr E had made and removed Ms J's name from the account.

Santander doesn't know what the outcome of the dispute about the property will be. That's for the court to decide. I think it's reasonable for Santander to wait for the court's decision before taking further action.

I appreciate how upsetting it is for Ms J's family to be involved in a dispute over the ownership of the property. But I don't think it's fair to say that Santander is responsible for the dispute, or the basis on which Mr E disputed Mr P's claim to the property.

I don't think it's fair and reasonable in the circumstances to require Santander to accept payments from Mr E to repay the mortgage or pay compensation for his legal costs.

Santander offered £250 for delays in logging the complaint and for distress and inconvenience caused. I don't think the delays with logging the complaint affected the underlying problem being resolved: Santander had already returned Mr E's payments and set out its position. The outcome of the complaint didn't change this. However, this is a difficult and upsetting situation, and it's understandable that Mr E wanted the complaint to be investigated to ensure the right steps had been taken. In the circumstances, I think £250 is fair and reasonable compensation for the additional upset and inconvenience caused by these delays.

My final decision

My decision is that Santander UK Plc should pay £250 to the estate of Ms J.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Ms J to accept or reject my decision before 3 March 2023.

Ruth Stevenson
Ombudsman