

## The complaint

Miss K's complaint is about the deeds of her property, which is mortgaged to Santander UK Plc. She has complained that she was not informed when her solicitors did not return the deeds to Santander in 2018, thereby meaning that she couldn't take action to resolve the situation at the time. The deeds being missing meant the sale of the property fell through in June 2023.

## What happened

Miss K took out a mortgage with Santander in 2012. In February 2018 Miss K's solicitors contacted Santander. It informed Santander that it was acting on her behalf in the sale of her property and requested that the deeds be sent to it. Santander sent the solicitors the deeds on 21 February 2018 and told it that if the sale didn't complete, the deeds should be returned within nine months. The sale of the property didn't complete, but Miss K's solicitors didn't return the deeds to Santander.

Santander wrote to Miss K's solicitors on 27 February 2018 and 6 March 2018 reminding it to return the deeds if the sale did not complete. On 6 March 2019 and 3 April 2019 Santander chased the return of the deeds. In the last of the letters, it informed the solicitors if it did not return the deeds within 14 days Santander would remove it from its panel of solicitors. Santander made one further attempt to get the deeds returned on 1 May 2019.

Miss K's current solicitors contacted Santander for the deeds on 21 February 2023. Santander confirmed it didn't have them. It wrote to Miss K's previous solicitors again asking that they be forwarded to the new solicitors.

Santander responded to the complaint in a letter of 7 March 2023. It confirmed that the deeds had been sent to her solicitors in 2018 and they had not been returned, but this was not due to an error on its part. It had asked the solicitors to return the deeds, but it had not done so, and it had confirmed it didn't have them. As such, the solicitors were responsible for reconstituting the deeds and Santander was instructing this to be done. Although the complaint was not upheld, Santander paid Miss K £75 compensation.

Miss K was not satisfied with Santander's response and referred her complaint to the Financial Ombudsman Service. When she did she told us the £75 Santander had paid her was '*not a drop in the ocean*' toward the amount her solicitor had charged her and the amount she'd paid for the marketing of the property, all of which was wasted as the sale fell through because of the missing deeds. She said if Santander had told her in 2018 her solicitors had not returned the deeds, she could have dealt with the issue then and she wouldn't have incurred the costs she did. Miss K also said that the loss of the sale would result in her having to move back into her property, which would involve her having to give up her job (in her new location) and find alternative employment where her property was located.

One of our Investigators considered the complaint and recommended that it be upheld. He didn't consider that Santander could be held responsible for the financial losses Miss K had suffered because of the missing property deeds. He concluded this because it was Miss K's

solicitors, when acting for her, who had lost the deeds, not Santander. However, the Investigator considered Santander could have told Miss K earlier that her solicitors had not returned the deeds to it. He was satisfied this delay contributed to the upset and inconvenience Miss K experienced and recommended Santander increase the compensation payment by £225 to make a total of £300.

Miss K didn't accept the Investigator's conclusions. She said it was wrong that all the blame was placed on her former solicitor as Santander had an obligation to tell a borrower if their deeds were not returned. It failed to do that and as a direct result, her sale had fallen through because she had been unable to rectify the solicitors' error earlier.

Santander accepted the Investigator's recommendation.

As agreement couldn't be reached, it was decided the complaint should be referred to an Ombudsman.

Subsequently, Miss K confirmed that she had been informed the deeds had been found and send back to Santander. She requested that when Santander received them, it forwarded them to her for safekeeping. We forwarded the request to Santander.

### **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.

It is positive that Miss K's deeds were eventually located, so it appears they were not lost, but simply misplaced. However, when they went missing they were in the custody of her solicitors when it was undertaking work for Miss K. While the solicitors were on Santander's panel of firms it would deal with in relation to the purchase of a property being mortgaged with it, it had no control over what the solicitors did or didn't do when it was working for Miss K.

Quite simply, the error that was made in this case was made by Miss K's solicitors and it was a direct result of that error that Miss K suffered the financial loss she did and most of the stress she has reported. It is true that Santander could have highlighted to Miss K in 2019 that her solicitors had not returned the deeds to it, and this would have been good customer service. However, the deeds not being returned to Santander was not the cause of the loss Miss K suffered. The cause of the loss was that the solicitors misplaced the deeds. Santander could not have known this had happened, so it would have been expected that if Miss K needed the deeds in the future, the solicitor would simply forward them to her.

Miss K has said if Santander had told her that the deeds had not been returned at the end of its process, she could have dealt with the situation. I can understand why that is the case, but we don't know when the deeds were misplaced or what would have happened at the time. It is plausible in 2019 the deeds had not yet been misplaced and Miss K would have been satisfied they were in safe.

In order for us to award the financial losses Miss K has claimed for against Santander, I would need to establish a clear line of causation between its actions, or lack thereof, and the loss suffered. I am not persuaded that there is clear causation in this case and so I can't hold Santander responsible for Miss K's financial losses. I would suggest that if she has not already done so, she might want to approach her previous solicitors about the issue, especially in light of the fact that it has now found the deeds.

That said, given the circumstances, I think discovering Santander could have told her something that she came to believe could have prevented her suffering a loss, will have contributed to the stress and upset she suffered. Santander paid Miss K £75 in this regard. I am in agreement with the Investigator that this is insufficient given the circumstances and that Santander should pay Miss K a further £225 compensation, making a total of £300.

### **My final decision**

My final decision is that I uphold this complaint in part. In full and final settlement of the complaint, I order Santander UK Plc to pay Miss K £225 compensation.

Under the rules of the Financial Ombudsman Service, I am required to ask Miss K to accept or reject my decision before 14 March 2024.

Derry Baxter  
**Ombudsman**