

The complaint

Mr S complains that Tesco Personal Finance Limited, trading as Tesco Bank, rejected his claim under section 75 of the Consumer Credit Act 1974 in relation to the alleged mis-sale of a fractional timeshare.

What happened

In June 2013 Mr S purchased holiday club membership from a timeshare provider (“the supplier”), by way of upgrading his existing membership to a fractional timeshare. He paid £4,556 for this using his Tesco Bank credit card in July (and also traded in some timeshare points he already had).

In 2019, Mr S (represented by a claims management company) complained to Tesco Bank that the timeshare had been mis-sold. He described various shortcomings about how the supplier had sold the timeshare, and also about the product itself. He asked Tesco Bank to consider his complaint as a claim for compensation under section 75. When Tesco Bank did not respond in time, he brought this complaint to our service. Subsequently, the bank gave a detailed response to each allegation, and concluded that the section 75 claim was not well-founded.

When one of our investigators considered this case, he concluded that section 75 did not apply to Mr S’s credit card purchase, for legal reasons. Consequently, he did not uphold this complaint. Mr S asked for an ombudsman to review his case.

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.

Having done so, I do not uphold it. I will explain why.

Where goods or services are purchased on credit, section 75 can (in certain circumstances) make the provider of credit jointly and equally liable with the supplier of the goods or services for a misrepresentation by the supplier. But section 75 only applies where the credit is paid directly to the supplier, and under pre-existing arrangements between the supplier and the creditor (Tesco Bank).

When Mr S made his credit card payment, the payment was not made directly to the supplier, but to a third party, which I will refer to as “X”. X then passed the money on to the supplier, but this was not done under any arrangement between the supplier and Tesco Bank. Consequently, I do not think that section 75 applied to Mr S’s payment, and so I do not think it would be fair or reasonable to hold Tesco Bank liable for the actions of the supplier, in the absence of any law making it liable.

I am reinforced in that opinion by the judgement of the High Court in the recent case of *Steiner v. National Westminster Bank plc* [2022] EWHC 2519 (KB), which reached the same

conclusion in another case about the purchase of a timeshare.¹ That judgement was actually about section 56 of the Consumer Credit Act, not section 75, but the same restriction on the applicability of one section also applies to the other.

I am therefore satisfied that Tesco Bank was not wrong to reject Mr S's claim under section 75.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 17 January 2025.

Richard Wood
Ombudsman

¹ See in particular paragraphs 61 and 62 of the judgement.