DRN-4442533

Financial Ombudsman Service

The complaint

Mr T complains that Target Servicing Limited delayed the redemption of his help to buy shared equity loan.

What happened

Mr T bought his property with the aid of a mortgage and a help to buy loan. A help to buy loan is a form of shared equity loan offered by a government agency to support home ownership. It's secured by way of a second charge over the property and rather than a fixed sum a borrower borrows – and must repay – a set percentage of the property's value.

Help to buy loans are unregulated products, and so is the lender that offers them. But the lender has appointed Target to administer the loans on its behalf. Target is a regulated firm and in administering the loans is carrying on a regulated activity. Target is therefore responsible for answering this complaint.

Help to buy loans are interest free for the first five years, but from then on interest is payable on the sum borrowed until the loan is repaid. As he was approaching the point when interest would be payable, Mr T decided to repay the loan using his savings.

Mr T contacted Target to start the redemption process and Target told him to pay the appropriate fee, complete an application form, and obtain a valuation. It also said that if his property was affected by potentially combustible cladding, he would need to provide an EWS1.

Mr T complied with these requirements and sent the valuation to Target at the end of May 2022. Target told him that his redemption request was "under review". Target then told him that the valuation had expired, so Mr T submitted an updated valuation in September 2022.

In March 2023, Target told Mr T that his redemption could proceed. But it told him that the redemption application fee had expired and he would have to pay a second fee. Mr T was finally able to redeem his loan at the end of April 2023.

Mr T complained to Target but it didn't respond to his complaint, so he brought it to us. Target told us that Mr T's valuation request was being considered by the lender because his property was impacted by cladding and that it wasn't responsible for the delay that resulted.

Our investigator didn't think it was fair that Mr T's redemption had been delayed. She said that Target should refund the excess interest and fees he was charged as a result, and pay him £300 compensation. Target didn't respond to her assessment, so the case comes to me for a final decision.

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.

In administering this loan on behalf of the lender, Target is carrying on the regulated activities of debt administration and debt collection. That means it is performing the lender's duties and exercising the lender's rights, as well as collecting payments due on the lender's behalf. In doing so – in common with all regulated firms – it must treat its customers fairly. I'll therefore consider whether, in doing those things, it acted fairly and reasonably in all the circumstances.

Under the terms of the loan agreement, the borrower is entitled to redeem the loan at any time by application to the lender's nominated agent – Target. To determine the redemption price, a qualified valuer must be appointed by agreement between the parties. The valuer's decision is final and binding, and is used to set the redemption sum. A valuation is valid for three months (extendable by one further month).

In this case, Mr T decided to redeem as he was approaching the start of the period where interest would be payable. He wasn't selling the property, and he's shown he had sufficient resources to be able to pay the loan off without either selling or taking further borrowing elsewhere. So redemption wouldn't have been a problem once the redemption sum was set.

Mr T contacted Target in May 2022 to start the process. Target told him to appoint a qualified valuer, pay the redemption fee and complete the redemption request form. It also told him he would need either an EWS1 or a letter from the freeholder of his block confirming one wasn't needed, and referred him to additional guidance online.

It's important to note that Target did not request agreement to the specific valuer Mr T chose, or add any further conditions or requirements beyond those I've set out above. It just required the valuer to be qualified. The loan terms require a valuer to be appointed by agreement between the parties. In telling Mr T to appoint a valuer of his choice – subject to the requirement of being a qualified professional – Target agreed to accept his choice.

That means the resulting valuation was final and binding and should have been used to set the redemption amount. On the lender's behalf, Target exercised the lender's right to agree to a nominated valuer by agreeing to accept Mr T's choice. That created a duty on the part of the lender to treat the valuation as binding and allow redemption based on it – as the nominated administrator, therefore, Target was obliged to perform that duty.

In other words, on receipt of the valuation, Target was required to allow redemption to proceed. But it didn't do so. It sent the valuation and other documents to the lender. Its emails show that it was responsible for some delay, because it didn't provide all the required documents and sent some incorrect information relating to a different borrower. Once this was corrected, there was further delay by the lender while it "reviewed" the redemption request.

I don't think this was fair and reasonable. Under the terms of the contract, as I've said, the valuation produced in May 2022 was final and binding. Target says that because the property was affected by cladding issues and had declined in value as a result, the lender needed to review the request before accepting it. But under the terms and conditions the lender wasn't entitled to "review" or delay redemption. Target had agreed the valuation on its behalf and the valuation was therefore final and binding. There's no "review" mechanism in the terms and conditions.

Once the valuation was produced, the lender's obligation was to proceed with redemption. As the regulated administrator, Target – acting fairly and reasonably – ought to have complied with that obligation. It didn't do that. The redemption was delayed as a result. That wasn't fair and reasonable in all the circumstances, and I'm satisfied it's fair to hold Target responsible for the consequences to Mr T of that delay.

Putting things right

Mr T obtained his valuation at the end of May 2022. A valuation is valid for three months initially, and I recognise that even if nothing goes wrong it takes some time to comply with the formalities and make payment. But I think it's reasonable to expect that Mr T ought to have been able to have redeemed his loan no later than the end of August 2022. Had that happened he wouldn't have been charged interest or administration fees from September 2022 onwards, and Target should refund those costs to him.

As the redemption should have proceeded based on the first valuation, the second valuation cost and the second application fee should not have been charged. Target should refund those too. But as the second valuation was the same as the first, the actual redemption sum was not affected by the delay.

Finally, Target should compensate Mr T for the upset and trouble the delay caused. This included the worry and uncertainty, having to pay unnecessary interest and instruct a second valuation, as well as the time spent chasing Target trying to get matters resolved. I think £300 is fair in all the circumstances.

My final decision

My final decision is that I uphold this complaint and direct Target Servicing Limited to:

- Refund all interest and administration fees charged from 1 September 2022 onwards, adding simple annual interest of 8% running from the date each payment was made to date of refund. This includes the second redemption administration fee.

- Pay Mr T the cost of the second valuation, adding simple annual interest of 8% running from the date he paid it to date of refund.

- Pay Mr T £300 compensation. If payment is not made within 28 days of the date Mr T accepts this decision – if he does – Target should add simple annual interest of 8% running from the date of this decision to the date of payment.

Target may deduct income tax from the 8% interest element of my award, as required by HMRC. But it should give Mr T a tax deduction certificate so he can reclaim the tax from HMRC if he's entitled to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 18 March 2024.

Simon Pugh
Ombudsman