The complaint

Miss W complains that Santander UK Plc has threatened repossession action in connection with arrears on her mortgage.

What happened

Miss W and her former partner took out a mortgage with Santander many years ago. They separated in around 2007 and Miss W has not lived in the property since then. The mortgage remains in joint names.

For many years Miss W's former partner was living in the property and paying the mortgage. But he stopped making payments in around May 2023, and no payments have been made since then – with the result that the mortgage is in substantial arrears.

Miss W says that she's applied to the court for an order that the property be sold and that she be allowed to conduct the sale. She says this will result in the mortgage being repaid.

However, Santander has instructed solicitors to take legal action to repossess the property. Miss W complained. She said that Santander's solicitors had been writing to her at the mortgaged property even though it knew her correct correspondence address – she only found out what was happening when her former partner passed some of the correspondence on to her. And she said that Santander had issued proceedings and obtained a court date even though it knew she was actively trying to sell the property herself.

Miss W says that she obtained a court order for sale in October 2024 and instructed an estate agent but her former partner wouldn't co-operate so the property wasn't listed for sale until March 2025. She told Santander what was happening, but it still insisted on pressing ahead with repossession action. She said her former partner was obstructing the sale so she had applied to the court for an order that she be allowed sole conduct of it – the hearing was expected in April 2025.

Miss W complained. Santander said that it would cancel the hearing listed for 2 December 2024, and allow Miss W a further three months to resolve things before it would take further action. And it offered £100 compensation.

Miss W wasn't happy with that and brought her complaint to us. She said that Santander hadn't acted fairly in going to court, and it should not take further action until her legal action against her former partner was complete, allowing her to then sell the property herself. It knew that she had been a victim of domestic abuse, which made contact with her former partner difficult, and was doing what she could to resolve things. Taking repossession action only adds extra costs and stress. She said she was trying to talk both to Santander and to its solicitors, but they were both blaming each other and insisting she talk to the other, so she couldn't make any progress.

Santander said that the mortgage was in substantial arrears, with no payments having been made for around two years. It couldn't allow things to drag on, with the mortgage going unpaid and the balance increasing. It had allowed Miss W a further three months, but if the property hadn't sold by then it would resume legal action to repossess and sell it itself.

Our investigator said that Santander had wrongly sent correspondence itself, or its solicitors had sent it on its behalf, to the wrong address. But he said that despite that Miss W was aware of the situation and the action Santander was taking. He was sympathetic to Miss W's situation. But he said that neither Miss W nor her former partner had made any payments for a considerable time, the arrears were substantial, and the equity in the property was being eroded. He didn't think that Santander had acted unfairly in taking action to recover the mortgage when no payments were being made and it wasn't clear when Miss W would be able to sell the property, if at all.

Miss W didn't agree and asked for an ombudsman to review her complaint. She said she had kept Santander up to date with everything that had happened and it was aware of her difficult situation. It had failed to communicate with her despite knowing the correct address and not told her about legal proceedings. She said that Santander had acted in breach of the Mortgage Charter and the pre-action protocol for mortgage possession. It had shown a complete disregard for her circumstances and wellbeing.

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.

I'm very sorry to hear about Miss W's situation and everything she's been through. I can see that things have been, and continue to be, very difficult for her. I'm conscious that Santander's decision to take legal action to repossess the property has caused her much distress. So I've thought very carefully about whether doing so was fair in all the circumstances.

I understand Miss W's position here. She hasn't lived in the property or paid the mortgage for many years, and can't afford to pay it now. She's doing what she can to resolve the situation – she's obtained an order for sale from the court and the property is now on the market. If it can be sold in the normal way, there's no need for Santander to repossess it, and doing so just adds extra cost and stress.

But I also understand Santander's position. No payments have been made for around two years. The mortgage balance is therefore increasing every month. Although Miss W has been trying for over a year to sell the property – first by going to court, then by putting it on the market – no sale has yet been agreed, let alone completed. The longer this situation continues, the worse things get for all parties. The balance is increasing, the equity is eroding, and the risk that Santander might not be able to recover the full balance from any sale, or Miss W wouldn't be left with any equity, increases.

On balance, I don't think Santander has acted unfairly. The first possession hearing wasn't listed until December 2024, eighteen months after the last payment was made, so it had already allowed a significant time for Miss W to resolve things. Even then, it hasn't actually repossessed the property – agreeing to adjourn the hearings listed in both December 2024 and April 2025.

Possession proceedings, or even a possession order issued by a court, doesn't mean that Santander will immediately repossess the property. Obtaining a possession order is only the first stage – once it has a possession order, Santander would have to go back to court to obtain an eviction warrant, and Miss W would have the chance to ask the court to adjourn rather than grant Santander's application at both possession order and warrant stage.

The repossession process can take some time – it can take months for the court to list a hearing. By late 2024, there had been no payments for over a year. Miss W had obtained a court order for sale but hadn't been able to put the property on the market because of obstruction by her former partner and was having to go back to court to take control of the sale process. So it wasn't clear at that time when the property would be sold, how long that would take – or even whether, in the end Miss W would be able to sell it at all. I think it was reasonable for Santander to begin possession proceedings to run alongside Miss W's continuing efforts to sell the property. As I say, that doesn't mean that Santander would repossess it immediately – but it would ensure that all options were open and prevent further delay.

I appreciate this is a very difficult situation for Miss W. But it's not in her interests for things to drag on indefinitely either. By allowing her more time to try and sell the property herself, including adjourning the December and April hearings, but also having live possession proceedings as a back-up option if she can't do so within a reasonable time, I think Santander acted fairly in all the circumstances.

I've noted that Miss W doesn't think that Santander complied with the pre-action protocol or Mortgage Charter. I don't think it has acted unfairly in light of the Mortgage Charter – which says that a lender shouldn't repossess a property within 12 months of the first missed payment. As the first missed payment was over two years ago, Santander hasn't done that. As for the pre-action protocol, ultimately it's for the court to regulate court procedure. But I'm not persuaded that Santander has acted unfairly here either. It has explored alternatives to legal action and tried to work with Miss W, and it and its solicitors have notified her of the steps it is taking.

I agree with Miss W that Santander did have her correct address. It ought to have made sure that all correspondence with her about the arrears and legal action, including from its solicitors, was sent to the right address. I can see why this caused Miss W much upset. But in the end I'm not persuaded this made any difference to the outcome, because Miss W was aware of what was happening and was taking her own steps to resolve the situation, including through her own court action against her former partner. Santander also should have dealt with her complaint about this itself. Even in respect of letters sent by its solicitor, Santander is responsible for the actions of its agent and it's only Santander, not the solicitor, which is engaged in a regulated activity. It was responsible for the complaint, not the solicitor.

I can see the property is now on the market, and Miss W has recently reduced the asking price. I hope she's able to complete a sale, and repay the mortgage, soon. In the meantime she should keep Santander informed of progress. And Santander will need to continue to keep things under review. Repossession should always be a last resort, so if Miss W is making progress towards a sale it should allow her a reasonable time to complete. If Miss W is unhappy about future action Santander takes, she can make a complaint about that at the time. But I hope that won't be necessary and she's able to bring things to a completion.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss W to accept or reject my decision before 28 August 2025.

Simon Pugh
Ombudsman