

## **The complaint**

Mr and Mrs S complain that Santander UK Plc did not treat them fairly when it took possession of their home and after it had taken possession.

## **What happened**

Mr and Mrs S had a mortgage with Santander. In June 2013, Santander obtained a possession order. But the court would not allow Santander's attempts to enforce the order in 2014 and 2017. But in October 2022 the court agreed a warrant for possession of the property and Santander took possession of the property.

Mr and Mrs S entered into an agreement with third parties to sell the property. But it did not go ahead. I understand one of the third parties later started legal action against Mr and Mrs S for breach of contract.

Mr and Mrs S complain that Santander:

- Was wrong to repossess their home. They were making the required monthly mortgage payments and they believed that any arrears had been capitalised and were being repaid. They said that Santander gave the court incorrect information that was out of date.
- Didn't tell them it was going to clear the contents of their home. They said they'd lost all of their possessions.
- Prevented them selling the property to a third party.
- Hasn't assisted them in defending the legal action taken by the third party.

The investigator initially thought Santander should pay Mr and Mrs S £300 for any distress and inconvenience caused when they found out their property had been cleared. But on review he did not think any of the complaints should be upheld. Although they initially proposed to uphold the complaint about clearing the contents of the property, on review they thought Santander and its agents had given Mr and Mrs S adequate notice about what it was going to do.

Mr and Mrs S did not accept what the investigator said. They made a number of points, including:

- Santander did not tell them that the house was going to be cleared on 7 June 2023. They did not receive any communication about that.
- Santander and its agent should provide recording of the calls it said were attempted.
- The contents of their home were of significant monetary, personal and sentimental value to them. They should be compensated for their loss.

- They did not understand why the investigator had changed their mind that Santander had taken reasonable steps to tell them the property was going to be cleared. Bearing in mind all their belongings were in the property and as Santander knew that a loan to repay the mortgage balance – and Santander had a copy of the loan agreement and had issued a redemption statement.
- There was no deadline on the letter of authorisation.
- Santander did not agree to the sale to the third party for a number of reasons, including it was its policy not to deal with such third parties, Mr S said it was a sale and not a gift or loan, a failure to meet anti money laundering requirements and failure to produce proof of funds.
- It was inaccurate to say that Mr S told Santander that a sale to the third party was not in their best interests. It was Santander that said its policy was not to deal with the third party, that such a sale it would not be in their interests and that it would not allow the sale to the third party in any circumstances.
- The relationship between Santander and the third party and its solicitors had already broken down by the time Mr and Mrs S spoke to Santander.
- Santander should have recording of the phone calls with Mr and Mrs S regarding the sale to the third party. They spoke to them directly because Santander would not deal with the third party's solicitors.

### **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.

#### Repossession

The evidence I have supports that the mortgage was significantly in arrears, that there was no arrangement in place to repay the arrears and that Santander had not been able to contact Mr and Mrs S to agree a viable and sustainable way to repay the arrears, which had been in place for some time and were growing. In the circumstances it seems reasonable for Santander to take the action it did.

Nevertheless, the court agreed a possession order and issued a warrant for eviction. I don't have the power to overturn the court's decision or say it was wrong. Mr and Mrs S would need to seek legal advice if they consider the orders should be overturned because their home was repossessed based on incorrect information .

#### Contents

Before Mr and Mrs S were evicted from their home Santander wrote to them twice saying that all contents should be removed from the property and that all remaining contents would be removed and disposed of after 14 days. Santander knew that Mr and Mrs S were planning to either sell the property to a third party or find a loan to repay the mortgage. It delayed removing the contents of the property to give Mr and Mrs S time to make those arrangements – and it gave Mr and Mrs S a reasonable amount of time to do that.

Mr and Mrs S said that on the date the property was cleared Santander and/or its agents knew or ought reasonably to have known that they had a loan agreement in place that was likely to go ahead. They also said that Santander and/or its agents did not take reasonable

steps to tell them that it was intending to clear the property.

We have notes of conversations between Santander and Mr S. They reflect that by February 2023 it had multiple conversations with him that the property needed to be cleared. We also have a recording of a phone call between Mr S and Santander's agents on 3 April 2023. The agent tells Mr S that Santander has told it that he must arrange for any belongings to be cleared from the property by 21 April 2023 as the property is going to be cleared on 24 April 2023. Mr S said there had been some confusion and that he was in the process of "*purchasing the redemption and Santander was aware of that*". The agent said that Mr S should contact Santander if that was not correct.

The evidence we have supports that Mr S did contact Santander after that point and before the property was cleared on 7 June 2023. It also seems likely that Mr S believed that the refinancing was in place at that point. Santander has not been able to demonstrate that it communicated clearly to Mr S that the property was still going to be cleared. So I do not consider that Santander treated Mr and Mrs S fairly in respect of the information it gave them about the property being cleared.

On the other hand, there is no evidence that Santander did revoke the notice that the property was going to be cleared. Mr and Mrs S have not given us any evidence to support they were led to believe that. – rather they say they were not given any notice at all. But I do not think that is likely in view of the evidence. And bearing in mind the evidence we have it seems unlikely Santander would have agreed to any further delays.

I note that Mr and Mrs S had not cleared the property before despite being encouraged to do so by Santander and its agents for some time. So even if it had set out more clearly the property was going to be cleared on 7 June 2023 or set a new deadline after it knew the finance was not going ahead on around 14 June 2023, it is not clear that Mr and Mrs S would have taken action to collect their belongings.

In all the circumstances, I do not consider that Santander is responsible for the contents of the property being cleared. But there has been some avoidable distress and inconvenience caused by its failure to communicate in a clear and fair way. I consider the investigator's original recommendation to pay £300 is fair to reflect the distress and inconvenience caused by that. It is not intended to compensate Mr and Mrs S for the loss of their belongings – I have not found that Santander was responsible for that. Rather it is to reflect that some of Mr and Mrs S's upset and regret at not clearing the property could have been avoided if Santander had set out and documented its position more clearly than it did.

#### Sale to third party

Santander was not involved in any dealings that Mr and Mrs S had with the third party who was going to buy their property. I accept there might have been some confusion about what the third party was proposing – but Santander was not responsible for that.

Santander has told us that once it had taken possession of the property Mr and Mrs S did not have the authority to sell the property. As far as I can see that is correct. Even if Santander had other reasons for not allowing the sale to go ahead – and on the face of it the proposed sale did not appear to be in Mr and Mrs S's best interests – it does not appear in the circumstances to be unreasonable for it not to engage with the third party or its representatives.

Ultimately it was for Mr and Mrs S to decide how to proceed with the third party and it was their decision not to continue with the proposed sale. That led to the third party starting legal action, but I don't consider that was because of any error by Santander. That also

complicated things because of the notice applied by the third party against the property.

#### Legal action

The dispute was between Mr and Mrs S and a third party who they agreed to sell the property to. That was a matter for them and the third party. I can't see that Santander could be required to assist Mr and Mrs S with that or to get involved to a greater extent than it did.

#### **My final decision**

My final decision is that Santander UK Plc should pay Mr and Mrs S £300 in addition to the £100 it has already paid in respect of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 30 July 2025.

Ken Rose  
**Ombudsman**