

The complaint

Mr and Mrs G complain that Bank of Scotland plc unlawfully repossessed their property relying on an invalid mortgage. They also complain about how the repossession was handled.

What happened

Mr and Mrs G took out a mortgage with Bank of Scotland in 2006. They borrowed £100,000 plus fees over a 22 year term and on a repayment basis.

BoS says that no payments have been made to the mortgage since 2021. It says it spoke to Mrs G several times over the years since then. Mr G was unable to work through ill health and while Mrs G was in work, she was unable to afford the mortgage payments.

BoS obtained a possession order from the court in October 2022. It says it tried again to contact Mr and Mrs G to see if a way forward could be found, without success. When it couldn't contact them, and no payments were made, it went back to court to obtain a warrant for eviction. The court issued the warrant, with an eviction date set for 3 March 2025.

The property was repossessed by bailiffs on that date. A few days later Mr G called BoS and asked it to return the property. BoS said it couldn't do so because there was no sign that the mortgage could be got back on track and Mr and Mrs G had no other plans to repay, such as a pending sale of the property.

BoS says it was told that on the day of the eviction there were a large number of people present and the bailiffs were threatened with violence. The police were called and the property was secured. It says that because of what happened it decided to remove Mr and Mrs G's belongings into storage and shutter the property to protect it, with security patrols. It notified Mr and Mrs G of where their belongings were so they could collect them.

BoS said that Mrs G collected the belongings she required. It said it gave Mr G several reminders and extensions but he didn't do so. They couldn't be stored indefinitely so were disposed of. The property was placed on the market for sale.

Mr G complained. Mrs G consented to the complaint but it has primarily been brought by Mr G. He said that no payment had been made since 2021 because they disputed the validity of the mortgage. Mr G says that BoS securitised the mortgage. He wanted to see the promissory note and the securitisation agreement. He said the proceeds of securitisation should have been paid to him. As a result of the securitisation BoS no longer owns the mortgage and has no contract with them and isn't entitled to payment. He said that the court order wasn't valid or served properly and any repossession action should have been through the Crown Court not the County Court. BoS stole the property from him. It sent "thugs" to violently evict him, during which he was caused injuries.

Our investigator didn't think the complaint should be upheld so Mr G asked for it to be reviewed by an ombudsman.

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've considered what Mr G has said about the validity of his mortgage and whether BoS was entitled to expect him to repay or to repossess the property.

I'm familiar with the arguments he's made about securitisation and how that impacts ownership of the mortgage. I'm afraid they're simply wrong. Securitisation is a normal part of financial services. In very simple terms, it allows mortgage lenders to raise funds by offering investors the right to some of the money received in repayment of existing mortgages. But all securitisation does is oblige the mortgage lender to share the proceeds of the mortgage with investors. It doesn't change the relationship between lender and borrower.

When Mr and Mrs G's mortgage was securitised, therefore, that didn't change the fact that BoS was their mortgage lender. They borrowed money from BoS, agreed to pay it back to BoS, and were required to pay it back to BoS – or risk losing the property they'd given as security to BoS. Securitisation did not change that. BoS remained their lender, remained the legal owner of the mortgage and the charge over their property, and remained entitled to expect them to repay. It was not required to get Mr and Mrs G's agreement to securitisation, or notify them of it, and no refund or payment was due to them because of it.

Mr G says he tried to raise these arguments during the possession hearing but the court wouldn't listen. I'm aware of many cases where these arguments have been made in court, and they have never succeeded. It's for the courts to decide whether, as a matter of law, a mortgage is legally valid or not. So it's not for me to say that this particular mortgage is or is not valid as a matter of law. But I'm satisfied that Mr and Mrs G borrowed money from BoS, agreed to repay it – and that it's fair and reasonable for BoS to expect them to do so.

It's also not correct that once a certain proportion of the total mortgage has been repaid possession proceedings have to be heard in the Crown Court. The Crown Court deals with criminal cases. All repossession and other debt recovery cases are dealt with in the County Court. That's what happened here.

In this case, the court issued a possession order in 2022 and a warrant for eviction in 2025. Mr G says those orders are invalid because they're not signed or sealed and weren't served properly. I have no power to overturn a court order. If Mr G doesn't think the court – or BoS – complied with legal requirements he would have to go back to court and appeal. But the copy court orders BoS has provided look like those I would expect to see. I've not seen anything that persuades me that BoS had no entitlement to repossess the property in line with the court order.

Although the court order was obtained by BoS, the actual repossession was carried out by court appointed bailiffs, with the police in attendance. The bailiffs and police don't come within my jurisdiction. Based on the report of the bailiffs, I don't think it was unreasonable that BoS asked its agent to secure the property.

Mr G asked BoS to return the property to him. It wouldn't agree. I think that was reasonable, given the level of the arrears and that Mr and Mrs G had no way of repaying the arrears and bringing the mortgage up to date.

I'm sorry to hear that Mr and Mrs G have lost their property. I'm sure this was a very upsetting and traumatic experience. But BoS was acting in compliance with a court order, and was doing so due to very large arrears which had built up because no payments had

been made for over four years. This meant the mortgage balance was increasing and the equity in the property was reducing, and where there was no prospect of getting things back on track it wouldn't be in anyone's interests to allow things to continue indefinitely. The longer the arrears mount, the more Mr and Mrs G owe and the less equity there will be left once the property is sold. Repossession should always be a last resort, but I'm satisfied it was reasonable for BoS to decide that the last resort had been reached. I've carefully considered everything Mr G has said. But I'm afraid I can't fairly uphold this complaint.

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 Mr and Mrs G to accept or reject my decision before 23 February 2026.

Simon Pugh
Ombudsman