

The complaint

Mr B, Mrs B, Mr B1 and Ms J complain about a buy to let mortgage with Paragon Bank Plc – in particular that it appointed receivers to manage the property, wouldn't agree to hand it back, and wouldn't agree to proposals to get the property ready for sale. Although all four were party to the mortgage, the complaint has been brought by Mr B, though with the consent of the other parties.

What happened

Mr B, Mrs B, Mr B1 and Ms J took out a buy to let mortgage in 2007. They borrowed around £89,500 on interest only terms over 15 years.

In 2014 and 2015, Mr B, Mrs B and Ms J were declared bankrupt. Mr B was discharged in 2019. In 2018, the borrowers stopped making payments to the mortgage. Mr B said that they weren't receiving any rent and no longer had control over the property.

Paragon appointed receivers to manage the property. As there were tenants in place, the receivers collected the rent and made payments to the mortgage, and so Paragon took no further action until 2022, when the term of the mortgage ended.

In July 2022 Mr B asked Paragon to discharge the receivers and hand the property back. Paragon said it would consider doing so if Mr B could show he had the funds to repay he mortgage balance (by then around £87,000).

In March 2023 Mr B got back in touch with Paragon. By now, because the term of the mortgage had ended, the receivers had ended the tenancy, obtained possession of the property, and were preparing to put it on the market with a view to using the proceeds of sale to repay the outstanding balance. Mr B asked Paragon to let him carry out some decorating work at the property first, so that it would achieve a higher sale price.

Paragon said it couldn't hand the property back without confirmation from all bankruptcy trustees that they no longer had an interest in the property and the trustees' interest had been returned to Mr B, Mrs B and Mr J. Mr B had told Paragon in 2022 that he had bought back his interest in the property from the Official Receiver. It also said that it required agreement from each of Mr B, Mrs B, Mr B1 and Mrs J that they would all agree to be bound by the original mortgage terms and conditions notwithstanding the bankruptcies. And it said that it wouldn't instruct the receivers to allow Mr B access to the property as this would delay any sale.

The property was sold in July 2023 for £110,000, of which around £95,000 was used to clear the outstanding mortgage balance including fees and costs added.

Mr B complained. He said Paragon should have made him aware of its full conditions for handing the property back before he purchased his own interest back. He said that the receivers should have allowed him access to the property to carry out some work – he intended to do around £5,000 of decoration, which would take around two to three weeks, and he had been advised that if that was done the property could have sold for around

£130,000.

Our investigator didn't think the complaint should be upheld. She thought Paragon had acted reasonably, and that it wasn't responsible for the receivers or any action taken by them. Mr B didn't agree and asked for the complaint 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.

Where a mortgage borrower is declared bankrupt, a mortgage debt isn't automatically written off – unlike unsecured debts. The loan agreement, and the debt that arises from it, is included in the bankruptcy, so the bankrupt isn't required to make payments under the loan agreement any more. But the lender retains its charge over the property, which means it can take possession of and sell the property to recover the debt instead. In practice, what usually happens is that a mortgage lender doesn't seek repossession as long as payments are made, so the mortgage continues on an informal basis.

That's what happened here when Mr B, Mrs B and Mrs J were made bankrupt. For a time the mortgage payments were being made. When payments stopped in 2018, because there were tenants in place paying rent, and it would potentially be time consuming and costly to remove them, Paragon appointed receivers to collect the rent and manage the property. The receivers then paid the rent to Paragon, so the mortgage payments continued to be made.

Although a receiver is appointed by the lender, the receiver is not the agent of the lender. The receiver in effect stands in the place of the borrower. Section 109 of the Law of Property Act 1925 says that a receiver is appointed by a mortgagee (lender) but "shall be deemed to be the agent of the mortgagor [borrower]; and the mortgagor shall be solely responsible for the receiver's acts or defaults unless the mortgage deed otherwise provides."

That's relevant law for me to take into account. Although Mr B is not resident in England or Wales, the property is, and the mortgage terms and conditions are subject to England and Wales law, including the Law of Property Act. Once a receiver is appointed by the lender, the lender is not responsible for any decisions the receiver may or not make. That's the case even where the lender is consulted by the receiver before making a decision. But if the lender instructs the receiver to do or not do something, it might in those circumstances be fair and reasonable to hold the lender responsible for that.

The terms and conditions of the mortgage also confirm that. Section 11 says the lender has the power to appoint a receiver to exercise any of the powers set out in the Law of Property Act, and says:

"the Receiver shall (so far as the law permits) be the agent of the Borrower (who shall alone be personally liable for his acts defaults and remuneration)"

Mr B says that the receiver should be treated as Paragon's agent, and Paragon should be responsible for the receiver's actions. The receiver did not take instruction from him so was not acting as his agent. The receiver did what Paragon told them to.

I've set out above the legal and contractual position regarding the appointment of receivers and the actions of the receiver. I've also considered what the evidence shows about decisions the receiver made and their relationship with Paragon. Having done so, I'm not persuaded that Paragon gave direction to the receivers such that the receivers were no longer acting as agent of the borrowers. Paragon worked with the receivers, consulting with

them about the management of the property and bringing the mortgage to an end. But that's not enough to override the statutory position that the receivers were acting as agents of the borrowers.

Because of the bankruptcies, and the fact that the borrowers had stopped making payments, it was reasonable for Paragon to appoint receivers. The receivers then decided that the mortgage could be serviced from the rents, so there was no need to sell the property at that point. But once the term ended in 2022, Paragon was entitled to expect the capital to be repaid – it retained ability to recover via its security notwithstanding the bankruptcies.

I don't think Paragon acted unfairly in respect of Mr B's requests to discharge the receivers and hand the property back. Paragon said that it would only agree to consider handing back the property subject to (i) the agreement of all parties both to the property being handed back and to being bound by the original mortgage terms and conditions despite the bankruptcies; and (ii) confirmation that the bankruptcy trustees had no ongoing interest in the property, or had agreed to release their interest back to the borrowers. If those conditions were met, Paragon would carry out a review of the wider circumstances (including of other properties the borrowers held with outstanding Paragon mortgages) and consider whether to hand this property back.

I think that was reasonable. I take the point that in the part of the UK where Mr B resides, bankruptcy law is different to that of England and Wales, and once the bankruptcy is discharged the trustee has no ongoing involvement. However, that doesn't mean that the discharged bankrupt is free to deal with the property as they wish.

As Mr B himself said, the Official Receiver retained an interest in his equitable share of the property for the benefit of his creditors. He had to purchase that interest off the Official Receiver. This demonstrates that mere discharge from bankruptcy doesn't free the borrowers up to deal with the property as they wish – and that while the Official Receiver does retain an interest, Paragon can't simply hand the property back, or hand over the proceeds of sale, without dealing with that interest. It was Mr B's decision to purchase his own interest back, and that's not something I can fairly hold Paragon responsible for.

Paragon told Mr B it would need the consent of the trustees of all the bankrupt borrowers before it could consider handing the property back. I don't think this was quite right, and Paragon should have been clearer. But it did need confirmation that the Official Receiver had no interest in the equitable share of any of the borrowers, not just Mr B. Mr B clearly knew this was an issue because he'd purchased his own interest back. I've not seen any evidence that any of the other bankrupt borrowers had done the same, or that they had any contact with Paragon around this time. I think it was also reasonable that Paragon wanted confirmation that the mortgage could be repaid before handing the property back, alongside evidence of the source of funds used for doing so.

As neither of the conditions were met, it didn't agree to consider handing the property back to Mr B or the borrowers jointly. I don't think that was unfair in all the circumstances.

That meant the property would need to be sold so that the mortgage capital could be repaid. Mr B made contact with the receivers in March 2023 to ask to be given time for "minor refurbishment" – cleaning, redecorating, new carpets and any necessary minor repairs – for which he would pay and instruct tradesmen. He also suggested the property sale be handled by his preferred estate agent. The receivers replied to say that the property had been left in good condition by the tenants when they vacated, and that the receivers would not agree to Mr B being involved in the sale.

Unhappy with that reply, Mr B contacted Paragon. Paragon said it agreed with the receiver's

decision, because it said that the receiver's role was to achieve the best price for the property in its current condition; because there was no guarantee that what Mr B proposed would have any impact on the value; and because Paragon agreed that the best way forward was for the receiver to sell the property and redeem the loan. Paragon also said that it wouldn't offer new lending to redeem the mortgage, or an extension to the existing mortgage term. It said it would only agree to hand the property back if the conditions it had already set out were met. Mr B retained the right to redeem the mortgage in full and take the property back that way.

Mr B said that if Paragon wouldn't agree formal term extension, in the alternative he wanted a short period of forbearance for the property to be sold, but by the borrowers not the receivers and following the refurbishment works. He said that each of the borrowers had now recovered their interest in the property.

I don't think Paragon acted unfairly here either. By then the term had ended some time ago, and Paragon was entitled to have the capital repaid. At any time until a sale by the receivers was confirmed, Mr B and the other borrowers retained the equity of redemption – meaning they could recover the property by repaying the full outstanding balance. But it wasn't unreasonable for Paragon to say that this was possible – subject to satisfactory evidence of source of funds – but that it wouldn't agree to delay a sale in the meantime. Any further delay would increase the mortgage balance through additional costs and interest.

I'm also satisfied it wasn't unfair for Paragon to refuse to instruct the receivers to allow Mr B to decorate the property, or to allow him and the other borrowers to handle the sale themselves. The receivers were in place. They were progressing plans to sell. If the receivers were stood down and Mr B and the other borrowers didn't redeem the mortgage within a reasonable time, receivers would need to be instructed again. I think it was fair that Paragon took the view that it was in the best interests of all parties to allow the receivers to proceed with a sale unless the borrowers were able to redeem in the meantime.

Once receivers are in place they take over from the borrowers and stand in their shoes. I wouldn't expect Paragon to have required the receivers to allow Mr B access to the property for refurbishment before selling it. The receivers' obligation is to obtain the best price for the property in its current condition. And in any case the sort of light refurbishment Mr B was proposing to do is not something that would have a significant impact on the property's value. I've looked at the sale particulars and the property appears to have been in a reasonable condition with no disrepair or other concerns that would impact its saleability. I'm not therefore persuaded that allowing Mr B to redecorate would have made a difference to the sale price – but it would have resulted in further delay and the accrual of further interest. It wasn't unreasonable that Paragon didn't agree to this request and didn't ask the receivers to allow it.

In summary, then, and while I understand how strongly Mr B feels about things, I don't intend to uphold this complaint. I'm satisfied that Paragon acted fairly and reasonably in appointing receivers and in accepting the receivers' advice to continue to use the rent to pay the mortgage until the end of the term. It then acted fairly and reasonably in agreeing with the receivers that the property would be sold to repay the balance. It explained what was necessary for Mr B and the other borrowers to take the property back. And when those conditions weren't met, it fairly and reasonably allowed the sale to continue so that the mortgage was repaid.

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 B, Mrs B, Mr B1 and Ms J to accept or reject my decision before 19 March 2026.

Simon Pugh
Ombudsman