

complaint

Mrs M complains that The Royal Bank of Scotland Plc treated her unfairly and caused her property to be sold for less than it was worth. She asks for compensation.

background

RBS had a second charge on Mrs M's residential property. The charge related to a business loan to a limited company. The debt became due and RBS took steps to enforce the charge. Mrs M says RBS sold her house for less than the retail price and was aggressive and insensitive to her. She says the second legal charge was to allow the related debt to be paid when the property was sold. And she says this wouldn't have been necessary if RBS hadn't sold the business assets for less than they were worth and failed to pursue third parties who had given guarantees for the debt. Mrs M says the way RBS treated her caused stress and health problems.

The investigator didn't recommend that the complaint should be upheld. She said RBS had given Mrs M time to sell the property and extended this a number of times before taking steps to possess the property in January 2015. Mrs M felt pressured to sell the property. But it wasn't RBS's fault that she had to sell the property for less than she'd have liked.

Mrs M didn't agree. She said we should look at the history leading up to RBS pursuing the debt. Mrs M said a court postponed proceedings to allow a sale and RBS acted against the judge's ruling. She said RBS continued with its court action when it knew she'd agreed a sale of the property.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

What happened?

Mrs M, and others, gave guarantees to RBS for a business loan to a limited company. The amount Mrs M owed under the guarantee was secured by a second charge on her house. The company went into liquidation. After the company's assets were realised there was an outstanding debt owed to RBS. In March 2012 RBS asked Mrs M for payment.

Mrs M contacted RBS in May 2013 saying she was selling her house and couldn't afford any repayments in the meantime. RBS extended its time limit for Mrs M to sell the property several times. In January 2015 the property hadn't sold and the estate agents confirmed there were no offers. RBS started repossession proceedings.

Possession proceedings were adjourned in June 2015. In September 2015 Mrs M sold the property.

Did RBS act unfairly?

The circumstances were difficult for Mrs M. She couldn't afford to repay the debt or make regular debt repayments. The property didn't sell at its initial valuation and she had to reduce the price. But I don't think, based on the available evidence, RBS treated her unfairly.

The debt Mrs M owed was due in March 2012 when RBS issued a demand for payment under her guarantee and the second charge. Mrs M said she intended to sell the property. RBS allowed Mrs M time to sell the property and extended the time allowed several times.

I appreciate the property market made the sale difficult, but this wasn't RBS's fault. RBS was entitled to take steps to recover the debt owed, including by enforcing its security. In all, RBS allowed Mrs M nearly three years after the debt became due to sell the property before starting possession proceedings. There were no offers for the property in January 2015. I don't think it was unreasonable for RBS to start possession proceedings.

In late August 2015 Mrs M's solicitor told RBS Mrs M was hoping to exchange contracts for the sale of the property in early September. Mrs M says it was unfair for RBS to continue with a court hearing in September. I understand the point she makes. But property sales can fall through and the hearing had already been adjourned in June. I don't think it was unreasonable for RBS to protect its position by continuing the possession process.

Did RBS cause the property to be sold for less than its value?

Mrs M was responsible for the marketing and sale of the property. I appreciate that she felt under pressure to complete the sale to avoid RBS taking possession of the property. But I think RBS allowed Mrs M a reasonable amount of time to sell the property. It was entitled to ask for the debt owed to it to be repaid. I don't think it had to wait indefinitely for the property market to improve. While I understand Mrs M was disappointed with the sale price, I don't think RBS was responsible for this.

Background to the complaint

I've read the back ground provided by Mrs M and RBS. Mrs M says she wouldn't have needed to sell the property if the business assets belonging to the limited company had been sold at a higher price. I have separately explained to Mrs M why I haven't looked into or made any findings about this here. Mrs M also says RBS should have pursued the other guarantors for payment. But the guarantee allows RBS to ask all or any of the guarantors for payment. So I can't reasonably find it made an error when it asked Mrs M for payment.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 26 August 2018.

Ruth Stevenson
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