

complaint

Mr and Mrs G complain that The Royal Bank of Scotland Plc ("RBS") has treated them unfairly and unreasonably by instructing solicitors to take legal action against them for the full outstanding debt following their failure to pay a bridging loan secured over their property. They want the original agreement to accept less than the full debt to be honoured by RBS.

background

Mr and Mrs G borrowed money using a bridging loan secured over their first property in order to buy another property. They failed to pay it on time so RBS agreed with them a payment plan. RBS said if the payment plan was breached, the full debt would be due from Mr and Mrs G; they said RBS should only claim the reduced amount as agreed. Mr and Mrs G didn't keep to the payment plan, and RBS instructed solicitors to claim the full debt and get a charging order over the second property.

Mr and Mrs G complained to RBS. It said as they breached the payment plan more than once, it was able to claim the full amount due.

Mr and Mrs G complained to us. The adjudicator's view was that RBS wasn't at fault. He thought RBS made it clear it would only accept less than was due if Mr and Mrs G kept to the payment plan. As they didn't, RBS was able to seek payment of the full debt. The adjudicator said as the matter was going to court, it would be for the court to decide if RBS was entitled to the full debt.

Mr and Mrs G disagreed. They said RBS said the debt had "crystallised" at the lower amount and it didn't tell them the full debt would be due if they breached the payment plan.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

This complaint turns on what was agreed in 2011 between Mr and Mrs G and RBS, and the meaning of the words "full amount". As legal proceedings have been issued, and this is a matter of interpretation of a contract, arguably this is best dealt with by the Court.

But as the Financial Ombudsman Service is meant to help parties resolve disputes without having to go to court, I have considered what was set out in the agreement in 2011. I think it's clear that RBS said if Mr and Mrs G wanted to have the benefit of paying less than they owed, they had to pay each month as agreed. The letter also says if they fail to do this, the full amount would be due and I think in all the circumstances, this means the full debt. Mr and Mrs G accepted this agreement and are bound by it in my view.

I can't say RBS has acted unfairly or unreasonably in asking the full debt to be paid, or instructing solicitors to deal with the matter.

my final decision

My final decision is that I don't uphold the 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 2 September 2016.

Claire Sharp
ombudsman