

Complaint

Mr Z complains about a car supplied to him under a conditional sale agreement with Moneybarn No. 1 Limited.

Background

In August 2018 Mr Z took out a conditional sale agreement with Moneybarn to cover the cost of a used car. The car was less than three years old and had travelled less than 24,000 miles. The cash price of the car was £11,975.

In March 2019 Mr Z noticed a leak that was causing flooding in the boot of the car. He had it inspected and the mechanic said that the sealant had worn away, and a temporary repair was applied.

At the same time Mr Z complained to Moneybarn. He said that he felt that the fault would have been there when the car was supplied, so he said it wasn't of satisfactory quality.

Moneybarn said that because the complaint had been made more than six months after he'd bought the car, the onus was on him to show the fault was present at the time of sale. It also said that it felt the faults were cosmetic and were caused by wear and tear. It said that he should expect some cosmetic wear because the vehicle was three years old.

Our investigator thought Mr Z's complaint should be upheld. He didn't think a reasonable person would expect sealant to crack and cause water to leak into the boot within the first 30,000 miles. He said this showed the car hadn't been proven to be durable.

Moneybarn disagreed and asked for an ombudsman decision. It said that because the mechanic's report had suggested this was a manufacturing problem, it was for the manufacturer to resolve.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I'm upholding this complaint, for the same reasons as our investigator.

Moneybarn supplied Mr Z with the car under the conditional sale agreement it had with him. There's a term implied in the agreement that the car would be of satisfactory quality. What is satisfactory is determined by what a reasonable person would consider satisfactory given the price, description and other relevant circumstances. In this case this would include things such as the age and mileage of the car.

Mr Z's car was three years old and had travelled 23,700 miles when he got it. So, a reasonable person might expect to have to repair or replace some of the parts of the car over time.

He'd travelled a further 4,000 miles when he reported the fault to Moneybarn. In its response to the complaint it made two points:

- The faults are cosmetic and due to wear and tear; and
- The fault lies with the manufacturer and it should repair the fault.

It also refers to the Consumer Rights Act 2015 (the Act) and says the onus was on him to prove the faults were present at the time of sale.

The Act says that goods must be of a satisfactory quality. This includes the durability of the goods.

Mr Z has provided a report from an independent mechanic. It states:

“The sealer that covers the roof joint to the tailgate hinge reinforcement panel has split causing the water to leak through it and therefore run through the inside of the inner rear panels and ending up at the lowest point - the spare wheel area.”

The report explains this is the cause of the leak, and rules out other work that appears to have been done on the rear of the car. There's nothing to suggest that the leak was caused by wear and tear. Like our investigator, I don't think that a reasonable person would expect there to be a water leak like this on a three year old car that cost £11,975. So I'm satisfied that it's more likely than not that the car wasn't of satisfactory quality when it was supplied.

The Consumer Rights Act 2015 says that there is a breach of contract where goods are not of a satisfactory quality. The Act explains the consumer has a right to have faulty goods repaired. And it's the trader, in this case Moneybarn, who must pay for the necessary costs to do this. It is not for Mr Z to pursue the manufacturer.

I wouldn't expect any person to have to drive around with a puddle of water in the boot of their three year old car. And I wouldn't expect them to put up with the smell of damp upholstery every time they used the car. So I disagree with Moneybarn that the faults are cosmetic.

I find the mechanic's report to be persuasive, and for that reason, I'm satisfied that it's more likely than not that a fault was present at the time the car was supplied which resulted in a flooded boot. I'm satisfied this shows the car was not of satisfactory quality when it was supplied to Mr Z.

The Act says that in cases like this, where the fault is identified after 30 days – and was present or developing at the point of supply – the finance company must be provided with an opportunity to repair the fault. As Mr Z's car has yet to be repaired, I think the fair thing to do here is for Moneybarn to arrange for a full repair.

I also agree with our investigator that Moneybarn should pay Mr Z £100 for the trouble and upset caused. He's had to pay several visits to garages, and drive his car with a smell of damp, and had to take care not to leave his possessions in the boot in case they become damp.

My final decision

For the reasons given above, I uphold this complaint. To put things right Moneybarn No. 1 Limited must:

- refund Mr Z £86 for the temporary repair previously completed;
- repair the fault to a satisfactory standard;
- Pay Mr Z £100 for the distress and inconvenience caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 26 July 2020.

Gordon Ramsay
Ombudsman