

complaint

Mr I complains that a car he acquired on a conditional sale agreement from Moneybarn No. 1 Limited isn't of satisfactory quality.

background

Mr I acquired a second hand car in July 2016, financed by Moneybarn. It had covered around 52,000 miles (although this is in dispute) and was around 8 years old. He says the car had several issues within a few days of him taking possession of it. He said this included: ABC pump, brake calipers, sensors, brake pads, battery control unit, electric wing mirror, fume smell in the car, rattling sun roof, bass speaker not working and a knocking noise. He also says the car had a higher mileage than was advertised. He wants Moneybarn to take back the car.

Moneybarn says Mr I didn't notify it of any issues until two months after getting the car. It said the dealership had covered the cost of fixing the ABC pump and battery control unit. Moneybarn didn't agree to cover the other issues as it said those were due to general wear and tear. It also said the issue with the speaker was highlighted in the pre-delivery inspection so Mr I would've been aware of it.

Our investigator asked Moneybarn to arrange for an independent inspection from a qualified mechanic. She said this might help establish if the faults Mr I complained about were likely to have been present or developing at the point of sale.

Unfortunately, the inspector wasn't able to road test the car because it had been in a front end collision and was therefore unsafe to drive. The limited issues the inspector could look at were considered to be due to normal wear and tear. He noted there wasn't any fume smell in the car.

Our investigator had contacted the dealership which said that Mr I had brought the car in a few weeks after purchase. It said the only fault Mr I mentioned was a knocking noise in the car but the dealership couldn't find a fault. The dealership said it offered to cover the cost of fixing it, if Mr I was able to identify (via a specialist garage) what the fault was. But the next contact it had was from Moneybarn.

Based on the independent inspection and the other available evidence, our investigator didn't recommend that the complaint be upheld.

Mr I didn't agree and was also unhappy that Moneybarn were now trying to repossess the car. Moneybarn says this is because Mr I had only ever made two monthly payments towards the car since July 2016. Moneybarn says it's now terminated the agreement and is entitled to repossess the car.

The complaint has been passed to me for a final decision.

my findings

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

Moneybarn can be liable if the car it supplied to Mr I under the conditional sale agreement wasn't of satisfactory quality. What is considered satisfactory quality for a second hand car can be very different to what is expected of a new car.

As with any car, there is an expectation that there will be ongoing maintenance and upkeep costs. There are parts that will naturally wear over time and it's reasonable to expect these to be replaced. And with second hand cars, it's more likely parts will need to be replaced sooner or be worn faster than with a brand new car. Moneybarn wouldn't be responsible for anything that was due to normal wear and tear whilst in Mr I's possession.

was the car of satisfactory quality?

Mr I has listed a number of faults with the car. He says he raised these with the dealership within a few days of having the car. The dealership disagrees with Mr I's version of events. And considering the available evidence, I'm not persuaded, on balance, that he did report all of the issues he's now listed within a few days.

I say this because Mr I has provided estimates from a different garage for fixing the faults. The earliest of these is dated November 2016. These estimates don't include some of the faults Mr I says he told the dealership about. Whilst it's possible he didn't mention them to the new garage, I find it unlikely he wouldn't have got a quote for everything that was wrong with the car.

The dealership has covered the cost of fixing the ABC pump and battery control unit. This is because it seems to accept these may have been present when Mr I was first given the car. But as these have been fixed, Moneybarn don't need to do anything more.

Moneybarn says Mr I's travelled in excess of 12,000 miles since having the car. So it's likely the other issues are due to normal wear and tear. I'm sorry to disappoint Mr I, but I agree and I'll explain why.

I've seen a copy of the pre-delivery inspection report that was carried out prior to Mr I taking the car. This showed that the brakes and brake pads were all in working order. Further, these (and the sensors) are all parts that do need replacing from time to time due to normal usage and would be considered normal wear and tear items. So I don't think Moneybarn can fairly be held responsible for covering the replacement costs for these parts.

The faulty speaker is listed on the pre-delivery inspection report. Moneybarn says this report would've been made available to Mr I. So I think it's likely Mr I would've been aware of this fault prior to entering into the agreement. As he was aware of the fault, and entered into the agreement anyway, I wouldn't expect Moneybarn to cover the cost of fixing it at a later date.

The independent inspection commissioned by Moneybarn confirms there isn't a fume smell in the car. I acknowledge Mr I strongly disputes this, but as there isn't anything to confirm what he says, I can't reasonably say Moneybarn needed to have done anything to put that right.

The independent inspection did note that the wing mirror and sun roof weren't functioning correctly. But Mr I hasn't provided any persuasive evidence to show that it's likely these weren't working when he took possession of the car. The car is 8 years old, so this does make it more likely that small electrical issues might occur at any time and parts (like the sun roof) become worn.

The independent inspection was carried out almost a year after Mr I took possession of the car. The inspector noted that the faults it could see were unlikely to have been there in July 2016 taking into account the age and mileage of the car. As there's no other persuasive evidence to show when these faults first occurred, I don't think it's likely they were present when Mr I took possession of the car.

mileage reading

Mr I says the car had a different mileage to what was advertised. He originally told Moneybarn in September 2016 that it was 1,000 miles more. A few weeks later he said it was 2,000 more. The finance agreement he signed says the mileage is around 52,000 and I can't see that Mr I complained about this sooner than two months later. But in any event, given how much mileage the car had already covered, I think it's unlikely a difference of 1-2,000 miles would've made any difference to Mr I's decision to enter into the agreement.

repossession

Mr I had only ever made two of his monthly repayments. He says this is because he wasn't happy paying for the car whilst it had faults. Whilst I understand he had very strong feelings about that, Moneybarn were entitled to continue asking him for repayments. The agreement Mr I signed also explains that Moneybarn can repossess the car for non-payment.

As Mr I's continued not to pay what is due under the agreement, Moneybarn decided to terminate it. It has now attempted to repossess the car. And given how long Mr I has withheld payments, I don't think Moneybarn's actions are unreasonable.

my final decision

For the reasons explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr I to accept or reject my decision before 8 September 2017.

Tero Hiltunen
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