

complaint

Mr A complains that Santander will not refund to him money that he paid for a vacation club, using his credit card, that he says was misrepresented to him. His claim is made against Santander under section 75 of the Consumer Credit Act 1974.

background

In October 2006 Mr A paid €928.80 using his credit card and £6,000 by bank transfer for membership of a vacation club. He says that it was misrepresented to him because he was told that he would get a refund after 59 months. He has never used the vacation club and has experienced a number of problems with its booking system. He therefore claimed a refund from Santander under section 75 but his claim was rejected so he complained to this service.

The adjudicator did not recommend that this complaint should be upheld. She concluded that Mr A had paid money to one company but that the vacation club had been provided by a different company. She therefore concluded that the debtor-creditor-supplier relationship required for a successful claim under section 75 was not present and that Santander was therefore not required to refund the payments to Mr A.

Mr A says, amongst other things, that he cannot accept that an “agent” or “marketer” can have an agreement for selling its product without any form of connection, either directly by way of same personnel or indirectly by way of contract between businesses.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

In certain circumstances, section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there had been a breach of contract or misrepresentation by the supplier. One of those circumstances is that there must be a direct relationship between the debtor, the creditor and the supplier.

In this case the debtor is Mr A because he has used a credit card provided by Santander to make the purchase, the creditor is Santander which has provided the credit and the supplier is the company that has agreed to provide the vacation club. However there is no direct relationship between Santander and the company that has agreed to provide the vacation club because the payment that was made by Mr A was paid to a different company. As the debtor-creditor-supplier relationship required for a claim under section 75 to be successful is not present, I do not consider that Santander is required to refund any money to Mr A.

my final decision

For these reasons, my final decision is that I do not uphold this complaint.

Jarrold Hastings
Ombudsman