

## **complaint**

Mr B complains that Moneybarn No. 1 Limited is holding him responsible for an agreement that was taken out in his name without his consent.

## **background**

In 2017, a conditional sale agreement was taken out in Mr B and his ex-partner's name. The agreement was taken out to acquire a car that cost around £7,500. It was to be paid back within five years by payment from Mr B's account. Shortly after the agreement was set up, it fell into arrears. Moneybarn made various attempts to contact Mr B and his ex-partner about the arrears over the next few months.

Due to the missed payments, the agreement was terminated in December 2017. Mr B's ex-partner contacted Moneybarn the following month and agreed to enter into a consent order with Mr B to repay the arrears which would enable them to keep the car. The agreement remained in arrears over the next few months and the car was eventually repossessed.

Mr B says that he separated from his partner, and following on from this, in November 2018, he says he found letters that showed he was party to the finance agreement.

Mr B says that he did not consent to enter into the finance agreement and that his signature had been forged on the documentation. Mr B says his ex-partner had taken advantage of him and done this without his permission. He also says his ex-partner had taken out other agreements without his permission.

In December 2018, Mr B contacted Moneybarn to say he hadn't agreed to enter into the agreement. And, he also contacted the police to obtain a crime reference number.

Moneybarn said it had received no contact from the police, and based on the evidence it had, it didn't think there was enough to show that Mr B shouldn't be held liable for the agreement. It referred to the documentation completed and signed at the point of supply and to the consent order that was signed by Mr B in January 2018. Moneybarn said it had received a copy of Mr B's passport and bank statements that were provided during the application. It acknowledges that texts and emails it sent went to Mr B's ex-partner, but it says it also wrote to Mr B at his address various times.

Unhappy with its response, Mr B brought the complaint to our service to consider.

Mr B provided some further evidence to our service after bringing the complaint to us. In summary he says:

- He had a previous joint agreement with his ex-partner for a car but says she told him she'd managed to source finance herself with Moneybarn.
- He didn't drive the car.
- His ex-partner left him with various other arrears.
- His ex-partner used his bank account to manage her finances.
- His ex-partner hid the post from him, and it was only after she left that he started to receive correspondence.
- He didn't recall signing the conditional sale agreement but does agree that he likely signed the consent order – although he says his ex-partner didn't show him the whole document, so he didn't know what he was signing.
- His ex-partner had access to his bank statements and passport.
- The police advised him to go through Moneybarn to sort things out.

Our investigator looked into the complaint and contacted the broker of the agreement. The broker said the application was made online and the sale was completed on the phone, with Mr B's authority. It also highlighted the documentation and information supplied to Mr B. The broker provided a copy of the sales call where Mr B gave his permission to be added as a joint applicant.

After reviewing everything, our investigator ultimately concluded that Mr B consented to the application and that it was fair for Moneybarn to hold him jointly liable for the outstanding balance.

Mr B responded to the assessment to explain he might've agreed for his account to be used, but he was on medication at the time and his mental health wasn't in a good place. So, he wasn't sure what he was agreeing to.

I issued a provisional decision on the complaint that said:

*The finance agreement in this case is a regulated conditional sale agreement and our service can consider complaints relating to these sorts of agreements.*

*It sounds like Mr B has been through a lot, and I'm very sorry to hear how things have affected him.*

*I have to bear in mind that a court has issued a consent order in Mr B and his ex-partner's name. The consent order gave Mr B and his ex-partner an option to retain the car, providing certain payments were made.*

*The court order sets out what would happen if the conditions weren't met. This is a very important document because it's something a court has ordered. It's not my role here to question the validity of a court order. It's my role to decide if it's fair for Moneybarn to fairly hold Mr B jointly liable for the outstanding debt. And based on the court issued consent order that sets out Moneybarn can hold Mr B and his ex-partner jointly liable for the agreement, I can't say that it's unfair of it to do that.*

*Of course, I should point out there is nothing preventing Mr B from going back to the court to argue that he didn't consent to the agreement or that it was taken out under duress. But this is not something that our service is able to assist him with.*

*All things considered, while I know it'll disappoint Mr B, I can't fairly say it's unreasonable for Moneybarn to be holding Mr B jointly liable for the outstanding debt.*

Moneybarn didn't respond to the provisional decision.

Mr B responded to say he was unhappy with the provisional decision and doesn't think he should be held liable for the debt. He reiterated that he didn't sign the finance agreement. And he said he couldn't remember what happened with the court order and that he was unwell at the time and on medication.

### **my findings**

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

As I said in my provisional decision, I am sorry to hear that Mr B is unhappy and has been unwell. And by no means am I saying that his complaint doesn't have any merit. But our service is an alternative to court. The court has issued a consent order saying Mr B can be held jointly liable for a debt. And Mr B signed this order. It's not appropriate for me to say the court order is incorrect. I can only repeat myself and remind Mr B that if he remains unhappy, he might want to consider contacting the court.

For the reasons given above, I'm not going to direct Moneybarn to take any action.

### **my final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 January 2021.

Simon Wingfield  
**ombudsman**