

complaint

Mrs D complains that HSBC Bank plc failed in its duty to ensure that her deeds were received from her solicitor in 2002 and were returned to her when her mortgage was paid off.

background

Mrs D entered into a mortgage agreement with HSBC in 2002. As security HSBC obtained a charge over Mrs D's property and registered with the Land Registry. The mortgage was redeemed in 2012. Mrs D wanted the return of her unencumbered title deeds which, she assumed, were held by HSBC. However, HSBC was unable to locate them.

Our adjudicator did not recommend that this complaint should be upheld as HSBC had done all it could to locate the deeds and apologised for not doing so in the first place. Mrs D disagreed with this view as HSBC should have made sure it held her deeds.

my findings

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

Mrs D is concerned about what happened to her pre-registration title deeds. These are clearly her documents and if HSBC received them, they should be returned to Mrs D. The problem is that there is no compelling evidence they were received by HSBC. On 27 June 2002 Mrs D's solicitor wrote to her to say "I will arrange to register the property into your name and the deeds will then be sent off to HSBC Bank plc. I will let you know when this is completed."

Clearly, when this letter was written the deeds were not yet sent to HSBC. I have not seen any subsequent letter confirming the deeds were sent, or indeed a list of what deeds (if any) were sent. I therefore cannot find, on balance, that these deeds were actually sent to and received by HSBC. Mrs D makes the point that if HSBC did not make sure they had the deeds, they were negligent. But HSBC's concern is with its own security and after de-materialisation did not require the pre-registration documents for that purpose. Like the adjudicator, I find that HSBC did try to locate the deeds. But, as I cannot say that HSBC actually received these deeds, I cannot fairly uphold this complaint.

my final decision

My decision is that I do not uphold this complaint.

Gerard McManus
ombudsman