

complaint

Mr S complains about the actions of Cheltenham & Gloucester Plc ('C & G') over his mortgage.

background

Mr S and his previous spouse (Mrs S) took out a remortgage from C & G for £180,000. The purpose was to redeem their existing mortgage (with another lender) and pay off some unsecured debts. They also changed their insurances on C & G's recommendations.

Mr and Mrs S fell into arrears with their mortgage payments. They divorced in February 2012, by which time Mr S had moved out of the property. He had agreed with Mrs S that she would meet the monthly mortgage payments. The property did not form part of any divorce settlement. Mrs S later moved out of the property.

There were considerable difficulties in C & G accepting Mr S's new address, though it wrote to him on three occasions and Mr S made efforts to contact C & G about his new address. In view of the mortgage arrears C & G then started possession proceedings and obtained a possession order in September 2013 – by which time the mortgage indebtedness was £189,000. Neither Mr S nor Mrs S attended the court possession hearing.

C & G then sold the property for £170,000, which was considerably in excess of the independent valuations it obtained. There is now a shortfall of £28,000 for which Mr and Mrs S are jointly liable. Mr S says that he would have been able to maintain the mortgage if he had known of the arrears.

Mr S complains that C & G mis-sold the remortgage and sold the property at an undervalue.

While our adjudicator did not think the complaint as to mis-sale or sale at an undervalue should be upheld, she was critical of C & G's efforts to record Mr S's new address for correspondence. She recommended – and C & G has accepted – that it should pay £2,000 for trouble and upset to reflect the distress caused to Mr S by his not knowing of the mortgage arrears and the court proceedings. C & G has also agreed to refund the costs of sale of £1,197 plus interest of £211.23.

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've taken careful note of Mr S's further comments since the adjudicator's letter.

I have considerable sympathy with Mr S over his ill health and financial difficulties. I accept that C & G should have made more effort in keeping him posted as to the state of his joint mortgage and the court proceedings, particularly when there is good evidence that he tried to maintain contact with it and provide his new address. I therefore think that the award of £2,000 for trouble and upset fairly reflects this failing, together with the property costs of sale. However, it was Mr S's joint responsibility with Mrs S to maintain the mortgage payments, not least when there was no arrangement within the divorce proceedings as to the ownership of the property and responsibility for future mortgage payments.

For the same reasons as the adjudicator, I am satisfied that C & G did not mis-sell the mortgage. The new mortgage met Mr and Mrs S's stated needs to redeem their existing mortgage and reduce or pay off their unsecured debts. Their monthly outgoings reduced, even if their overall mortgage indebtedness increased.

The property was not sold at an undervalue, because the sale proceeds exceeded C & G's independent valuations by £40,000. Regrettably therefore Mr S will remain jointly responsible for the shortfall.

my final decision

My final decision is that Cheltenham & Gloucester PLC should pay Mr S £2,000 for trouble and upset and £1,408.23 (inclusive of interest) in respect of the sale costs.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 8 April 2016.

Charles Sweet
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