

complaint

Mr and Mrs F complain that, following the re-possession of their house, the Co-operative Bank plc (at that time Britannia) failed to properly manage the sale of the house and was negligent in its management of the property. They complain that these failures have caused them significant financial loss.

background

Mr and Mrs F's house was repossessed in spring 2007. There had been a history of arrears leading up to a court order for possession combined with a judgment to Britannia for £136,284.53. I cannot consider any issues already considered by a court and the focus of the complaint before me is the actions of the business following repossession. I will not take into consideration any evidence relating to matters prior to the date of repossession.

Following repossession, the sale of the property was delayed for a number of reasons, in particular the bank's failure to address structural issues at the property in reasonable time although these were apparent at the time of repossession. It also chose to refuse offers on the property in order to make an insurance claim in an attempt to rectify the problem.

Mr F initially complained to this service about the delays in the sale of the property in autumn 2008 but the complaint was closed in 2009, in part because the adjudicator was satisfied that the property had been advertised on the open market but also because at that time we would have been unable to estimate any financial loss because the property had still not been sold. This was not a formal dismissal of the complaint.

There were further delays in selling the property due to the protracted insurance claim and works on the house. In winter 2010, a burst water pipe which was left to leak for weeks into the house caused extensive water damage. The bank's estimate for repair of the flood damage is £60,000-70,000.

After further insurance related delays, the bank decided to sell the property on a cash only basis without repairing the flood damage. The property was finally sold for £137,000 just over five years after it was repossessed. It left a shortfall of over £50,000 on the debt which had increased from the time of the possession order due to the accrual of interest and charges but which was 'crystallised' when the proceeds of sale finally completed.

Mr and Mrs F made a new complaint to this service in April 2012. The adjudicator looked into the facts of the five years of delay in selling the house. Although he recognised the business' right to apply its own decision making process and to apply interest to the debt, he recognised that there were undoubtedly instances of unnecessary and preventable delay which may have led to an increase in the debt. He put forward an offer from the Co-operative Bank to reduce the outstanding debt by the amount of interest charged from the time of the burst water pipe to the point where the house was remarketed in early 2012. This would leave a net balance of £41,755.60 for Mr and Mrs F to pay. They were asking for compensation of £100,000 for loss of equity in the property and didn't accept this offer.

my findings

I issued a provisional decision on this complaint which outlined my reasons for upholding this complaint. I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having carefully studied the

subsequent submissions made by Mr and Mrs F and the bank, my view of the complaint remains the same.

Following repossession of the property, Mr and Mrs F remained liable for the outstanding debt as stated in the 2007 court order. The bank, however, should have handled the sale of the property in such a way as to achieve the best possible price for the property. In doing this, the bank should also have borne in mind the impact of any delays in selling the property on the level of debt owed to Mr and Mrs F. In my view, the bank failed to do this resulting in substantial financial loss to Mr and Mrs F.

It is clear that the sale of the property was beset with problems from the start. Some of those problems, such as the existence of structural problems, were outside the bank's control. In my view, however, the way in which the bank has addressed those issues has added to the delays and contributed significantly to the interest applied with the result that Mr and Mrs F's debt has increased.

In particular, I find that repeated examples of maladministration of the property after repossession led to unreasonable delays in selling the property and significant deterioration in the fabric of the property. The decision to turn down offers on the property in order to pursue insurance claims to repair the structural issues on the property was an exercise of the bank's commercial judgment. The bank did not, however, taken into account the impact that its decisions would have on the debt owed by Mr and Mrs F. I therefore don't believe that it is reasonable that Mr and Mrs F should bear the significant negative consequences of the bank's decisions to delay the sale.

I appreciate that Mr and Mrs F feel that they have suffered a significant loss of equity through the relatively low sale value of their property compared to the valuations around the time of repossession. Given the existing structural problems and the extreme drop in property prices generally over the period in question, however, I do not feel that it is possible to estimate what part of the de-valuation was due to the bank's action or inaction.

The delays caused by the bank's actions, however, did have a clear impact on the amount owed by Mr and Mrs F. The bank has offered to effectively remove the interest applied to the debt from around the time of the water damage to the time of sale. I do not feel that this is enough compensation in the circumstances as a whole. In my view, the bank's actions and inactions over the entire period since repossession should be taken into account in assessing their responsibility for the financial loss.

The amount of indebtedness at the time of the court order for possession in 2007 was £136,284.53. Any increase in that amount is due to charges applied and interest accruing over the five year period between repossession and sale. The final sale price was £137,000, just over the original debt. That means that the outstanding debt is made up purely of interest and charges since repossession. Given the bank's responsibility for delayed sale and damage to the property over the five year period, in my view it is only fair that this debt should be written off.

my final decision

It is my final decision that I uphold this complaint. I order the Cooperative Bank plc to write off the outstanding debt owed by Mr and Mrs F made up of the shortfall following the sale of the property.

Susie Alegre
ombudsman