

complaint

Mr B complains that Paratus AMC Limited is unfairly asking him to pay the shortfall following the sale of his property. He wants matters put right.

background

Mr B had a mortgage with Paratus, which had been taken out originally when Paratus had a different name. The property was repossessed and sold, but not enough money was raised to pay in full the money owed to Paratus (a "shortfall"). Mr B said Paratus didn't write to him at the correct address and had run out of time to claim the shortfall from him. He also said it couldn't claim the shortfall from him anyway as there were no title deeds or terms or conditions which said the debt belonged to him. Mr B was also unhappy that Paratus hadn't responded to his letters.

Mr B complained to Paratus. It said it should've changed Mr B's address after his earlier complaint to this service, but said no detriment had been caused as Mr B knew about the debt and it couldn't change the address until it knew the new one in November 2014. It asked him to give details of his income and spending to consider what to do about the shortfall debt. Paratus also said the rest of Mr B's complaint had been dealt with in 2014.

Mr B complained to us. The investigator's view was that an ombudsman had previously found Paratus had correctly written to Mr B's last known address and that decision couldn't be reopened. And he said only a court could decide if time had run out to claim repayment of a debt. The investigator said the original terms and conditions of the mortgage said Mr B had to repay any shortfall but as Mr B had complained about this to Paratus in 2014, it was too late to complain now to this service. He also said while Paratus did respond to most of Mr B's letters, there was one in 2017 it didn't respond to because it had earlier addressed the point raised. The investigator didn't think in the circumstances that this was a customer service failure.

Mr B disagreed. He said as the mortgage had been taken out with a different name for the lender, the terms and conditions didn't apply. He also disputed whether time had run out to claim the shortfall from him.

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'm unable to reopen a final decision from another ombudsman so I won't comment further about the address issue raised by Mr B, other than to note that as Mr B knew about the debt, I think no detriment was suffered by him. I also note the previous ombudsman dealt with Mr B's complaints about the sale of the property and Paratus asking him to pay the shortfall debt, but those complaints were different to the complaint I'm considering.

I also think that arguments about the time available to pursue debts are a matter for the court, not this service, as it's a complex legal point. Limitation can be reset in a number of ways, which is why it's a matter for a judge to decide after hearing all the evidence and legal arguments. I won't comment further on this point.

While Mr B has been told his complaint about whether the original terms and conditions has been brought too late to this service, in any event he is incorrect as a matter of law. The original terms and conditions of the mortgage apply, even when the mortgage is transferred to another business or taken out in a previous name used by the lender

This leaves the issue of whether Paratus acted fairly and reasonably in failing to respond to one letter from Mr B in 2017. In all the circumstances, given the issues raised had already been dealt with by Paratus, I can't say it acted unfairly or unreasonably.

my final decision

My final decision is that I don't uphold the complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 23 April 2018.

Claire Sharp
ombudsman