

complaint

Ms B complains that the car she acquired through a conditional sale agreement with Moneybarn No. 1 Limited ("Moneybarn") wasn't of satisfactory quality. She wants a replacement vehicle.

background

Ms B took out a conditional sale agreement with Moneybarn in March 2016. She used this agreement to purchase a second hand car.

At the time of purchase, the car had done approximately 90,000 miles, and was six years old.

Ms B says she took the car into a local dealership in June 2016, as she felt there was a problem with its oil consumption. Ms B says the car was using an excessive amount of oil, and she had to replace it weekly. By this point she'd driven approximately 6,000 miles.

The local dealership conducted a general check on the vehicle. It didn't find any issues with the oil consumption, although it noted that the oil light was illuminated. It checked the oil filter and oil tank and found no leaks. There was a discussion about the wear and tear of the brake pads and spark plugs, which Ms B disputed. There was no further discussion about the vehicle at this point.

In December 2016, Ms B was driving the car abroad. It broke down, and was towed to a nearby garage. The garage said it needed extensive repairs. But as Ms B was unable to pay the cost of these, she left the car there. She had to make her way back to the UK without it.

She'd driven the car for approximately 15,000 miles by this point.

Ms B complained to Moneybarn and said the car had broken down because of the ongoing issue with the oil consumption. And she said because of this it wasn't fit for purpose when it was sold to her.

Moneybarn disagreed. It said the foreign garage had suggested the car had broken down because of an issue with the timing chain. It said Ms B had driven the car for approximately 15,000 miles since she'd bought it, and that this showed it was fit for purpose at the point of sale.

Moneybarn also noted the car didn't have a valid MOT certificate at the point it broke down. Ms B disagreed and brought a complaint to our service.

Our investigator didn't uphold it. She felt that there was no connection between the engine failure and high oil consumption. She felt there was insufficient evidence to show the car was inherently damaged when Ms B initially purchased it.

But Ms B disagreed and asked for an ombudsman's final decision.

my findings

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

Having done so, I don't think this complaint should be upheld. This is for broadly the same reasons as our investigator explained.

When a car is obtained through a conditional sale agreement there's an obligation that it must be of satisfactory quality. What constitutes satisfactory quality is what a reasonable person would consider that to be, when taking into account the mileage, condition and value of the car.

In this instance, the car was second hand at the point of sale. It had done approximately 90,000 miles. It was also six years old, and had had previous works conducted on it. The price reflected that, and was therefore cheaper than Ms B would've paid had she bought the same car brand new.

Ms B had the car for approximately three months before she first took it to her local dealership. I would note at this point she didn't complain to Moneybarn about the quality of the vehicle. The car had done approximately 6,000 miles by this point. I've reviewed the notes of the service that was conducted by the local dealership. There's reference to checking the oil filter and oil tank. There's no mention of a leak or of Ms B complaining of issues with the oil after this point. So I'm satisfied that, on balance, there were no major issues with the car at this point to suggest that it wasn't of satisfactory quality.

Ms B then drove the car for a further six months before it broke down whilst she was abroad. During this period of time she'd covered a further 9,000 miles. And there are no reports of Ms B having further issues with the oil consumption or that she'd contacted Moneybarn during this time to raise her concerns about the quality of the car.

The foreign garage which looked at the car said that it felt the issue was likely to be with the timing chain of the vehicle. Ms B hasn't produced any reports to suggest otherwise, but she herself maintains that the ongoing oil consumption was the cause.

Where there's incomplete or conflicting opinions as to the cause of damage, such as the current situation, I've got to decide what I think is most likely to have happened. And whether on balance a fault existed at the point of sale.

Neither Moneybarn nor Ms B have provided a detail report as to the likely cause of the breakdown. Moneybarn's provided an email from the foreign garage. This only states that the garage had done a '*quick check*' and that it thought the '*valves hit [sic] the piston.*' It also said that '*the timing chain probably, is of time off [sic]*'. There's no further follow up report or diagnostic test.

Ms B's only provided a copy of a telephone call, and the car's service book. And neither of these shed any real light on the cause of the problem.

So I've considered the age, mileage and condition of the car when it broke down to see if it's likely a fault was present from the point of sale. In doing so, I'm satisfied that it's more likely than not the car was of satisfactory quality when it was purchased.

I've also concluded that had there been an inherent fault with the car from the point of sale, it would've materialised sooner. I say this because of the significant mileage Ms B covered before the car broke down. By the point the car had broken down, it was over six years old, and had done over 100,000 miles. In the nine months Ms B had had it, she'd driven

approximately 15,000 miles. This is further supported by the fact she didn't complain to Moneybarn directly of any ongoing issues during this period.

So in the absence of any conclusive proof either way, I'm satisfied that it's more likely than not that the car was of satisfactory quality at the point of sale. And because of that I don't think this complaint should be upheld.

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 Ms B to accept or reject my decision before 5 June 2017.

Tom Whittington
ombudsman