

complaint

Mrs S complains that when Bank of Scotland plc, trading as Intelligent Finance ("IF"), re-possessed her property it sold it under value. She also says that her mortgage was mis-sold and the final loan amount upon sale was wrong.

background

In 2013 IF re-possessed Mrs S's home due to mortgage arrears. The house was sold for less than the final loan amount which has left Mrs S owing IF the shortfall.

Mrs S complained that IF sold her house for much less than the valuation figure. IF rejected the complaint on the basis that it achieved the best sale price it could.

Mrs S brought her complaint to us. In addition, she says that the mortgage was mis-sold to her and so isn't enforceable. She also thinks the final loan amount was too high.

The adjudicator didn't think IF had done anything wrong and so Mrs S asked for an ombudsman to make a 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.

Jurisdiction

Mrs S has previously complained to this service about the mis-sale of her mortgage. The adjudicator decided that the complaint was out of time as it was referred to us over six months after IF's final response. I agree. And I've seen no evidence of exceptional circumstances to nevertheless allow me to consider this part of her complaint.

In any event, the mis-sale issue has since been considered by the courts. And so even if this issue was in time I wouldn't be willing to re-visit the court's findings that the mortgage wasn't mis-sold.

Sale of the property

Following a surveyor's valuation IF initially marketed Mrs S's property at £775,000. After three months – and several viewings – the property hadn't sold. And so IF had the property re-valued. The surveyor recommended marketing at a more "sensible" price and suggested an achievable figure. IF followed this recommendation and the property was sold at that price.

IF had a duty to sell the property within a reasonable time. In one sense, an early sale was beneficial to Mrs S as interest continued to build up for as long as the property remained unsold. And so I think that after the second valuation the only responsible option was for IF to review the sale price.

The higher valuations that Mrs S relies on were by estate agents. And so I think that the qualified surveyor's valuation was more accurate – and IF was entitled to follow the professional recommendation when deciding what was a fair selling price.

Overall, I think that IF acted responsibly throughout and did its best to achieve a fair price.

Shortfall amount

Mrs S says that her loan balance around six months before the sale of the property was lower than the final loan balance upon sale. This is true. But it's clear from the account transactions and completion statement that the reason for this is because of further arrears and interest charges during that six month period. IF also added various fees to the loan including arrears associated fees and legal fees. It was fully entitled to do this.

And so the final loan amount was correct except for a legal fee that was added to the loan twice in error. IF has now removed that duplicate fee and the associated interest. As a result, it has confirmed that the shortfall balance is now £45,233.73. I take this opportunity to remind IF that it must inform Mrs S in writing of this amended figure.

my final decision

For the reasons given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 15 February 2016.

Sim Ozen
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