

complaint

A, a partnership, complain that Lloyds Bank PLC have wrongly maintained a charge over their property in relation to a debt which A say has already been cleared.

background

A took out a loan with Lloyds, secured over some of their property. They raise some issues regarding the conduct of the relationship manager who handled this.

The debt was called in and A was unable to pay in full. The bank waited for a period to allow A to sell the charged properties, but they were not sold. The bank then appointed Law of Property Act receivers.

A met with the bank and proposed a part payment in order to settle the outstanding debt. The bank rejected this offer, but set out a figure which the partners would need to offer in order for it to be acceptable. The figure was stated in terms of 'at least', and 'in excess of' a given sum. A did not pay this at that time.

A year later, some of the charged property was sold. The sum received by the bank was in excess of that they had described as being acceptable in settlement.

The bank says that the remaining debt is still outstanding. It says that it has sent annual statements in relation to the account, but A say they have not received them.

A says that the fact that the money raised by selling the other property is higher than that proposed by the bank means that the debt has been settled. A also say that the money in excess of the sum proposed as acceptable ought to be returned to them.

The adjudicator thought that the bank had not done anything wrong and that the outstanding debt and charge are being properly maintained.

A did not agree and so the complaint has come to me for 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.

I have seen a great deal of evidence, and correspondence in particular. I have considered all of this, and each of the arguments raised throughout the life of this complaint. But I am not going to rehearse every argument here. The central issue which I need to decide is whether or not this debt has been cleared, and what follows if it has.

There are time limits in relation to complaints that I can deal with. A's meeting with the relationship manager happened too long ago for me to consider and I am unable to go further into it.

While they were appointed by the bank, the conduct of the receivers is not something which falls within my jurisdiction. I am unable to go further into this issue.

I do not think that the fact that the bank received money in excess of a sum they had previously called acceptable settles the debt in these circumstances. Had A paid the proposed sum at the time it was proposed, I would think that this would settle the debt at that time. But they did not.

The bank was told that the sum they proposed could not be paid. A year later, money was received from the sale of the charged properties. At no time did A pay the sum proposed by the bank. Further steps had to be taken, and costs were incurred. It would not be reasonable to expect that the settlement offer was still live in these circumstances.

I do not think that it would be right to consider the proposal was in itself a reduction of the debt. The terms 'in excess of' and 'at least' make this clear. The absence of certainty in relation to the figure means it would not be reasonable for me to say that this was now the amount owed. It would be even less reasonable to say that this would now be the sum owed in future and regardless of what happened afterwards.

Overall, I think it is clear that the debt is still outstanding. The money received reduced the debt, but did not clear it.

Nothing I have seen raises any issue of poor service or improper action on the part of the bank. I agree with the adjudicator that no further action from the bank is necessary in relation to this complaint.

my final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask A to accept or reject my decision before 20 April 2017.

Marc Kelly
ombudsman