Financial Ombudsman Service

complaint

Mr M, as personal representative for the late Mr D, complains that Santander UK Plc wrongly gave Mr D a mortgage and used a false valuation figure to justify the amount lent. At the time the mortgage was provided by Abbey National plc (Abbey), now part of the Santander group. Mr M says Mr D was vulnerable and elderly and, because of the way the bank behaved, Mr D's estate had been deprived of about £100,000.

background

In 2006 Mr D re-mortgaged his house, because the initial interest rate term on his current mortgage had ended. He used a financial intermediary to help him with that, and Abbey was recommended as a suitable lender. Mr D told the intermediary that his house was worth about £800,000.

Abbey commissioned a valuation as part of the lending process. That reported the value of the house at £550,000. Although much lower than Mr D's estimate, this was still high enough for Abbey to provide a mortgage of £380,000. The mortgage was on an interest only basis for 15 years and had an initial fixed interest rate for two years.

Once the fixed rate expired Mr D went back to the intermediary, but an application to transfer the mortgage to a new lender was unsuccessful because the value of the property wasn't high enough. Mr M says the valuation is so different now – an estate agent recommends a selling price of about £350,000 – that the original valuation was fraudulent or at least incompetently carried out. He says Abbey trapped his late father into a commitment too high for him and left him paying interest on a mortgage where no capital was ever paid off.

Mr D sadly died in 2013. Mr M has brought two complaints – one against Abbey and the other against the intermediary, both about the way the mortgage was arranged and the valuation.

The adjudicator didn't recommend that this complaint should be upheld.

In summary she said that Abbey hadn't been involved in any discussions with Mr D – that was done by the intermediary. But she still thought Abbey had some obligations towards Mr D – those were focussed around the type of mortgage offered, how long it would run for and whether Mr D could afford it. She couldn't see anything that led her to believe that Abbey had breached its own lending policies or coerced Mr D into taking it.

Over-riding this she thought that the real problem was the valuation – which was carried out by a staff valuer – so someone who worked for Abbey. But she pointed out that the person was professionally qualified to carry out the valuation, and she didn't think that the lack of a signature on the valuation undermined its legitimacy. Finally she acknowledged the discrepancy between the 2006 valuation and other evidence provided by Mr M – but couldn't conclude that Abbey was wrong to accept the valuation.

Mr M doesn't accept the findings and I've been asked to reach a final decision. In particular he's unhappy about the valuation undertaken in 2006.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Firstly, I would like to offer my condolences to Mr M for his loss. I understand how hard it can be to deal with problems like this at what is already a difficult time. In this decision I'm only looking at the complaint Mr M brought against Abbey, rather than the intermediary. That has been dealt with in a separate complaint.

I've looked closely at all the information Mr M and Abbey have provided. Having done so, I have reached the same conclusion as the adjudicator did, for much the same reasons. But it might help if I explain a little about the way this service looks at complaints. Firstly I look to see if Abbey has made any errors in the way it dealt with Mr D. If I decide that it has, I then look to see whether those errors had a detrimental effect on Mr D – so was he, and therefore his estate, any worse off because of the way Abbey acted.

Only if I found both errors *and* a detrimental effect would I require Abbey to pay compensation and/or return Mr D's estate to the position it would have been in if the errors hadn't occurred.

There are two main components to Mr M's complaint.

Was Abbey acting correctly when it provided Mr M with a mortgage?

Abbey wasn't involved in the initial discussions about the mortgage. Those were with the intermediary Mr D used to help him find a mortgage. Instead Abbey simply received an application and followed its lending procedures before deciding whether or not to offer Mr D a mortgage. Whilst I think Abbey is entitled to accept the information contained in the application in good faith, that doesn't mean Abbey had no responsibility towards Mr D. For example, if it thought the information received was obviously incorrect, it might question it or ask for evidence to support the information given. But I can't see that there was anything in the 2006 application that would necessarily have alerted Abbey to that. I say this because the income figures it received – which Mr M says are incorrect – do seem reasonable, given that we know Mr D was both receiving a pension and still working as a GP.

The reasons why Mr D was content with an interest only mortgage and not really interested in how long it would run for also seem reasonable. That's because he said he intended to eventually sell the house and downsize, using the proceeds to repay the outstanding capital.

The mortgage fell within Abbey's lending policies at the time. I'm satisfied it followed these and the mortgage was affordable based on the information provided.

Was the valuation fraudulent and used simply to allow the lending to happen?

The valuation was carried out by a valuer who worked for Abbey – or the wider group of companies under the Abbey umbrella. That's a fairly common practise within the large lending institutions. It doesn't mean that the valuer wasn't appropriately qualified or more likely to inflate a valuation simply to allow lending to happen. Although I accept that the latter is a possibility, it's not something I've seen happen before. I haven't seen anything that supports Mr M's contention that it what happened here.

Mr M says that the valuation isn't properly signed. I can't agree with that as I'm satisfied that the electronic version of the original valuation is appropriately signed. The certificate has the relevant codes and reference numbers commonly used to electronically sign such paperwork. The valuer's qualifications and registration numbers are also given. As the adjudicator said, there isn't any known reason to be suspicious of such valuations simply because they are now in an electronic form.

I agree with the adjudicator that the valuation is out of sync with others Mr M has provided. But I can't decide whether it's *wrong* – because I'm not a qualified surveyor and that isn't something this service can decide upon.

I've looked instead at whether – if the valuation *was* wrong – it had a detrimental affect on Mr D. I can't see that it did. Mr D had an interest only mortgage for £380,000 before he re-mortgaged the house. He had the same level of debt (plus an arrangement fee) afterwards, and the mortgage remained interest only.

Whether the valuation in 2006 was correct or not doesn't alter the value of the property now. It simply allowed Mr D to transfer his mortgage to a new lender. There would still have been the same debt secured against the property, and Mr M, when dealing with Mr D's estate, would have had the same issue to deal with.

That means that even if I did conclude that Abbey had made an error – and I'm not saying it did - I don't think it would have made a material difference to Mr D's estate. I realise that this will be disappointing for Mr M, but I can't conclude that Abbey's actions have adversely affected the value of his late father's estate.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr M to accept or reject my decision before 29 July 2015.

Susan Peters
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