

complaint

Mr and Mrs A run a business partnership and complain that The Royal Bank of Scotland Plc did not fairly consider their proposals to repay partnership borrowing.

background

The partnership took a business loan which was secured in part on a commercial property. This property was let to another business operated by Mr and Mrs A, a limited company, and rental payments were used to service the loan. Their company ceased trading and vacated the property and, as a result, the partnership was unable to make loan payments. A formal demand was made by RBS and Mr and Mrs A made proposals to repay the borrowing over a longer period and let the property to a new tenant. They are unhappy that RBS would not accept these and has taken vacant possession of the property and plans to sell it.

The adjudicator did not recommend that the complaint should be upheld. He noted that RBS had given the partnership three options after the debt had been passed to the recovery department in March 2014. These were either to restructure the debt over an increased term of up to 10 years, to refinance the lending to another bank or to sell the property. RBS had asked a surveyor to give an opinion on the impact of the proposed tenancy on the value of the property and had been told that this would not enhance the value. As RBS had not received payments on the loan since November 2013 it decided to take vacant possession of the property in May 2014. He said that he did not consider that RBS had acted unreasonably. He noted that Mr and Mrs A had said that RBS had undervalued the property for sale and he said that this would need to be raised as a new complaint with RBS. It had put any further action on hold while this complaint was being dealt with by this service.

Mr and Mrs A did not agree. They said, in summary, that RBS had been too quick to refer their debt to its recovery department and that it had not fairly considered their proposal to clear the arrears and revert to the terms of their previous loan agreement.

my findings

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

I can see that in 2011 the partnership agreed to a loan over a term of five years. But, the repayments were calculated on a term of 20 years meaning that in 2016 the partnership would be liable to repay the remaining balance in a lump sum. The loan agreement says that the loan to the partnership was to be lent on to Mr and Mrs A's company and was also secured by a guarantee and debenture from that company. Terms of default under the partnership loan agreement were extended to include the insolvency or similar proceedings for the limited company.

In November 2013 that company did experience financial difficulty and ceased trading. Mr and Mrs A were unable to make repayments on partnership debt. I note that Mr and Mrs A said that they had been told that it would be a longer period before the debt was sent to recoveries in March 2014. But, they had not made repayments and a formal demand had been made. RBS told them that as a result that they could not revert to the existing terms of the agreement. I can see that it did consider their proposals but did not agree to these as it wanted the debt paid within 10 years.

I am afraid I do not consider it was unreasonable for RBS to take steps to recover the debt given the change in the financial circumstances of the partnership and the related company. It did allow Mr and Mrs A time to produce alternative proposals. I appreciate that, although it was prepared to extend the term of the loan, it required repayments to be made based on the actual loan term- rather than 20 years as before- and this meant a significant monthly increase. But, this would have meant that the full loan was required to be paid by 2024 rather than in 2016. RBS also obtained a report before deciding not to allow the proposed tenancy of the property.

I know that Mr and Mrs A will be very disappointed by my decision that RBS has not acted unfairly especially as any shortfall in repayment of partnership borrowing will be a personal liability for them secured against their home.

my final decision

In light of the above my decision is that I do not uphold this complaint.

Michael Crewe
ombudsman