

The complaint

Ms S complains that Paratus AMC Limited overvalued her property to induce her to borrow more. The property was later taken into voluntary possession and sold. Ms S says she isn't responsible for the shortfall debt.

What happened

Ms S bought a property in 2004. She re-mortgaged with Paratus in 2006, borrowing about £230,000. Ms S switched to interest only payments in 2008.

The property was taken into voluntary possession and sold for about £120,000 in May 2021. Paratus has asked Ms S to pay the shortfall debt.

An ombudsman previously looked into and issued a final decision regarding Ms S's complaint about the valuation and sale of her property in 2021. I won't be considering these issues again here.

Ms S raised a further complaint. She says valuations carried out on behalf of Paratus in 2006 and 2007 were incorrect and induced her to borrow more – which resulted in her now having a shortfall debt. She says the issues raised in the 2021 valuation report regarding the saleability of the property were in place in 2006.

Our investigator said Paratus was entitled to rely on the expert opinion of the valuer when deciding whether to lend.

Ms S didn't agree. She asked that we look into her complaint as a whole, including the mis-selling of the mortgage and why her property was marketed as having only two bedrooms and for less than she paid for it nearly 20 years ago.

What I've decided – and why

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

Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I must be clear here about the complaint I'm looking into. An ombudsman has already issued a decision about the valuations and sale of the property in 2021 and I'm not looking into those issues again here. The complaint Ms S then raised is about the valuations in 2006 and 2007. In summary, these valued her property at twice the amount that it was sold for in 2021. Ms S says the same issues that the 2021 valuation said affected the saleability of the property were in place at that time, so this doesn't explain the fall in value. Ms S says she was induced to borrow more due to her property being overvalued. As a result, she's been left with a larger shortfall debt.

Paratus didn't itself carry out the valuations. So as this complaint is about Paratus, what I

need to consider is whether Paratus made an error or treated Ms S unfairly when it instructed the valuations or when it relied on them when making a lending decision.

Ms S applied to Paratus for a mortgage, via a broker, in March 2006. The property was valued on behalf of Paratus in 2006 at £280,000. The valuation was carried out by a suitably qualified professional – a surveyor registered with the Royal Institution of Chartered Surveyors (RICS). The valuation report didn't raise any concerns about the property. The valuer said there were no local factors likely to affect saleability.

Ms S applied for further borrowing in 2007 (it's not clear that she took this out). The property was valued at £280,000 in mid-2007. The valuation was carried out by a RICS surveyor, and no concerns were raised about the property.

Following the valuations and sale of the property in 2021 Ms S raised concerns about the valuations carried out in 2006 and 2007.

Ms S already owned the property in 2006 when she applied to re-mortgage with Paratus, so the valuations had no bearing on the amount she paid for the property. Ms S says that Paratus induced her to borrow more by overvaluing the property.

The mortgage offer says Ms S applied for the mortgage via a broker on a non-advised basis. Ms S applied for a mortgage of £228,000. The mortgage application said the purpose of the loan was debt consolidation. In the mortgage application, the property value was estimated at £285,000. Ms S signed the declaration related to the application on 21 March 2006. The valuation report is dated 22 March 2006. The mortgage offer was issued on 24 March 2006 for the amount Ms S had applied for (plus fees added to the loan).

The basis on which lenders offer a mortgage is that, if necessary, they can get their money back through the sale of the property. Paratus instructed a valuation of the property, to establish whether the property was suitable security for the loan Ms S applied for and to help it make a decision whether to lend.

Paratus instructed a suitably qualified valuer – a RICS surveyor – to value Ms S's property in 2006 and 2007. I haven't seen evidence that Paratus influenced the valuations or that it had any reason to be concerned that the valuations were incorrect. I think it was reasonable for Paratus to rely on the expert opinion of the valuers when making a lending decision.

Ms S says the issues raised in the 2021 valuation report were in place in 2006. To support this, she provided a statement from a person that had visited her property numerous times, planning consents from the 1960s relating to an adjacent property and a copy of a complaint to the local council in 2010 relating to the adjacent property.

I can accept what Ms S says about work carried out at her property and the use of the adjacent property without this necessarily meaning that Paratus made an error in 2006 and 2007. It's possible the valuers didn't, at that time, consider these matters to be significant enough to mention or to affect the valuation. But the 2006 and 2007 valuation reports didn't mention these issues or raise concerns about how they might affect the saleability of the property. I can't fairly find that Paratus ought to have been aware of these issues and how they might, in future, affect the value of the property.

The available evidence suggests the 2006 valuation was slightly lower than Ms S's own estimate of the property value. It seems Ms S signed the mortgage application (with the amount she applied to borrow) before the valuation. If this was more than Ms S wanted to borrow, I don't think Paratus could have known this.

I don't know why there was such a change in the value of the property between 2006/2007 and 2021. I appreciate Ms S is now in a difficult position, with a shortfall debt to pay. But even if the valuations in 2006 and 2007 were incorrect, I haven't seen anything to persuade me that Paratus should have known this at the time.

Taking all this into account, I don't think it was wrong or unfair for Paratus to rely on the valuation reports when deciding whether to offer mortgage lending to Ms S.

From what Ms S has said, she's not in a position to repay the shortfall debt immediately. Ms S will need to talk to Paratus with the aim of agreeing an affordable arrangement to repay the debt. I'd expect Paratus to treat Ms S fairly, in accordance with rules on mortgage regulation. Ms S might consider taking advice from an independent financial adviser about her options.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 24 October 2023.

Ruth Stevenson
Ombudsman