

## **The complaint**

Mr R complains about the way that Pepper (UK) Limited trading as Engage Credit administered a mortgage. He considers that it shouldn't hold him liable for the shortfall balance that remains after the mortgage was repossessed.

## **What happened**

In 2007, Mr R took out a mortgage in joint names with his now ex-partner. The mortgage was for £127,500. It was administered by Engage.

In 2017, Mr R left the property. He said he continued to contribute to half the mortgage and other costs associated with the property – but when his ex-partner refused to sell the property, he stopped paying. The mortgage fell into arrears. Mr R said that he asked Engage to repossess the property, but it dragged its heels.

In 2018, a suspended possession order was issued. But Engage wasn't able to enforce it because repossessions weren't allowed during the Covid pandemic. In 2022, the property was repossessed. It was later sold for £155,000. After fees, that left a shortfall of £7,900. Mr R complains that the shortfall is unfair for a number of reasons, including:

- The proceeds from the sale were enough to repay the balance.
- The shortfall is made up of fees of more than £6,000.
- The mortgage balance was higher than it should have been because of the delay in taking possession of the property.
- Engage did not fairly consider his request for the shortfall to be written off in view of his circumstances.

The investigator did not think the complaint should be upheld.

Mr R did not accept what the investigator said. He reiterated his position that it was unfair that he has been left with the debt accumulated by his ex-partner when he had tried to find a mutually acceptable resolution. The delay by Engage in taking recovery action has had a detrimental impact on him.

## **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.

I was sorry to hear that Mr R's ex-partner has passed away. I understand the impact of the shortfall on Mr R, particularly as I can see he tried to prevent the mortgage arrears growing to the extent they did. But after considering everything he and Engage have said and provided I am not going to uphold this complaint. I will explain why.

When Mr R took out the mortgage he agreed to be jointly and severally liable for the debt. That means Engage could pursue him solely for the full amount of the debt, even though it was taken out jointly.

Mortgage lenders can only take possession of a property as a last resort. They can't take possession just because one party to a mortgage thinks it's the right thing to do. They need to show that they'd fully explored every way to get the mortgage back on track before taking possession.

Taking the above into account, the evidence I have doesn't show there were any undue delays by Engage in taking the action it did. There is nothing to support that it should have repossessed the property sooner than it did. Of course, Covid meant that Engage wasn't able to enforce the suspended possession order for some time. But that was outside its control.

I appreciate why Mr R thinks it is unfair that there is a shortfall left to pay even though the property sold for more than the original mortgage amount. But it reflects that the mortgage was in arrears and the fees that were added to the balance. Under the terms and conditions of the mortgage, Engage is entitled to pass on those costs to Mr R. In my experience, the level of fees is not unusual where a property has been repossessed. I can't see there has been any error in calculating the shortfall.

Looking at the information we have, it was reasonable for Engage to look for Mr R to make an arrangement to repay the shortfall if, after essential spending he could afford to make payments towards it. Mr R has told us that Engage has started court proceedings to recover the shortfall amount. It is entitled to do so in the circumstances and I can't interfere in that. Mr R should seek legal advice about his options.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 4 January 2024.

Ken Rose  
**Ombudsman**