

The complaint

Mr V has complained that Ikano Bank AB (publ) ("Ikano") rejected his claim against it under Section 75 of the Consumer Credit Act 1974. A representative (the CMC) was assisting Mr V with his complaint but he is now dealing with his own complaint.

What happened

Mr V bought a solar panel system ("the system") for his home in 2017. The purchase was funded with a loan from Ikano, and that business is therefore liable for the misrepresentations made by the supplier under the relevant legislation. In this case, Mr V alleges that the supplier misled Mr V into believing that the panels would be self-funding.

Mr V's complaint was considered by one of our adjudicators. He thought that the complaint shouldn't be upheld as there wasn't sufficient evidence to satisfy him that the system was sold on the basis that it would be self-funding.

Mr V didn't agree but made no additional comments. As the complaint couldn't be resolved by our adjudicator, I was asked to make a decision.

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.

In this case the relevant law includes section 56 and section 75 of the Act. Section 75 provides protection for consumers for goods or services bought using credit.

As Mr V paid for the system with a fixed sum loan agreement, Ikano agrees that section 75 applies to this transaction. This means that Mr V could claim against Ikano, the creditor, for any misrepresentation or breach of contract by the supplier in the same way he could have claimed against the supplier. So, I've taken section 75 into account when deciding what is fair in the circumstances of this case.

Section 56 is also relevant. This is because it says that any negotiations between Mr V and the supplier, are deemed to have been conducted by the supplier as an agent of Ikano.

For the purpose of this decision, I've used the definition of a misrepresentation as an untrue statement of fact or law made by one party (or his agent) to a second party which induces that second party to enter the contract, thereby causing them loss.

Having carefully considered everything provided, for broadly the same reasons as those explained by the adjudicator, I do not uphold this complaint.

Firstly, I'd like to explain that neither Ikano nor Mr V have been able to provide much paperwork from the time of sale. Where there is such limited evidence, I have to make a decision based on the available evidence – that includes Mr V's testimony and any other documentation either party have been able to submit as well as the wider circumstances.

Mr V said, in his letter of claim, that he was led to believe that the system would pay for itself via the financial benefits received from the system (which was a combination of the income from the Feed in Tariff (FIT) scheme and savings made on energy bills).

Subsequently, Mr V provided additional testimony that he was led to believe that he'd receive around £80 a month in payments from the FIT scheme and his electricity would be free. Mr V's monthly loan payment is around £80. Mr V added the supplier refused to provide him with a quote or any further breakdowns in writing because it said it was unable to give exact figures of how much sun he would get from day to day.

So according to Mr V, this supplier sold the system on the basis that it was self-funding but also at the same time explicitly told Mr V that it couldn't give him exact figures of what he would get. If the supplier couldn't ascertain what benefits he would receive because it didn't know how much sun Mr V would get, I have to question how the supplier could have told him with any credibility that Mr V would, in any event, have received enough benefit to cover the cost.

Neither Ikano nor Mr V have provided the usual documentation we see from this supplier like the estimated returns document. But Ikano says, that it has seen a number of documents from the time of sale in other cases and this supplier usually made the estimated returns and the costs clear during the sale.

This service has also seen a number of cases from this supplier from around the time of sale, and it does give us an indication as to the supplier's usual sales practices and it does look like, generally it did make the cost and benefit clear.

I've then gone on to think about the wider circumstances of this case. I've seen no evidence that Mr V raised any concerns about not receiving sufficient benefit to cover the costs with either the supplier or Ikano until 2021. I think if Mr V was genuinely disappointed with the benefits he was receiving and expected the benefits to cover the cost of the system, when this didn't materialise, I would have expected him to have raised this and I've seen no evidence that he did.

I also have to bear in mind that, outside of Mr V's testimony, there is no other evidence from the time of sale that the supplier was promoting the systems as being self-funding when Mr V bought his system. This is against the fact that in many other cases, sales documents were actually provided and generally showed it made the estimated returns and costs clear.

I've thought very carefully about Mr V's testimony, bearing in mind this is the main evidence Mr V has submitted. But having done so, I'm not satisfied that there is sufficient evidence here that the system was mis-represented to Mr V on the basis it would be self-funding or that Mr V relied on a statement like this, and this was the main reason he purchased the system. Each case is decided on the individual merits of that case, and on balance, I think the evidence suggests that it is unlikely there was a misrepresentation that would enable me to uphold this complaint.

Mr V's former representative also indicated that Ikano may not have carried out sufficient credit checks and didn't leave any documents for Mr V to look through in his own time. But Mr V appears to have signed the credit agreement fully aware of costs and doesn't appear to have raised any concerns either at the time or for many years after the sale. He also had a cooling off period which I would have expected him to utilise if he had any concerns. I haven't seen any evidence the loan was unaffordable. So, these points don't change my view of the complaint.

Summary

Having carefully considered the evidence provided by all parties in this complaint, I'm satisfied that there were no untrue statements of fact made by the supplier that induced Mr V to enter into the contract for the system, and I have found no other reason to uphold this complaint. So, I don't think Ikano's decision to not accept the claim was unfair.

My final decision

For the reasons explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr V to accept or reject my decision before 15 December 2023.

Asma Begum
Ombudsman