

The complaint

Mr S complains that he was given a final figure for his mortgage with Santander UK Plc, by a court, in March 2020. He said that after some delays caused by Santander's lawyers, he paid that amount. Mr S wants Santander to accept that he's paid his mortgage in full.

What happened

Our service has recently provided Mr S with a decision on the parts of his complaint that we are able to consider. This decision now looks at the merits of Mr S's complaint against Santander.

Mr S said that a court had decided in 2020 how much he owed Santander for his mortgage. He said the court ordered him to make a payment of £43,156.20 by 10 June 2020, and the court also told Santander that it wasn't supposed to charge any interest.

Mr S said he had considerable difficulty getting the payment information from Santander's lawyers. He said he started asking on 1 June 2020, and he showed us evidence of this. He showed us further emails he sent chasing a response, and detailed the calls he'd made asking for the information. But he didn't get payment information until he received a letter (dated 16 June 2020) on 20 June.

Mr S said a family member then went to make this payment for him, and found out the payment details were wrong. Mr S said he didn't get the right payment information until well after the payment was due. He paid the judgment amount in full on 7, 8 and 9 July.

Mr S said Santander was saying he still owed it money. He told us he just wanted Santander to accept he'd fully paid his mortgage.

Santander said something different. It said the judgement of the court on 10 March 2020 was that Mr S needed to pay £43,156.20 to prevent repossession of the property. But Santander said that figure wasn't the amount required to clear the mortgage. Santander said after this, interest was still accruing on the mortgage, and there was an outstanding balance on Mr S's account.

Our investigator didn't think this complaint should be upheld.

Mr S didn't agree. He said the court told Santander it shouldn't charge him interest until the date that it had given for him to make his payment. And it was a mistake by Santander's solicitors which meant the money wasn't paid by this date. Mr S thought that was why he was being charged interest now, and he said that was when everything went wrong. Because Mr S didn't agree, this case was passed to me for a final decision. And I then reached my provisional decision on this case.

My provisional decision

I issued a provisional decision on this complaint and explained why I only proposed to uphold a small part of this complaint. This is what I said then:

Mr S told us that, as he understood it, the court order in March 2020 set out how much he needed to pay, to clear his mortgage. And he'd paid that. Although it was paid a little later than the court said, he didn't think that was his fault. So he didn't think Santander should be asking him for more money, after that payment had been made.

Santander said the court order didn't do what Mr S thought. What it did, was require Mr S to make a large lump sum payment. That payment wouldn't clear his mortgage in full, but it would prevent Santander from repossessing his house.

Santander says it's always been clear with Mr S that he would still owe some money after this, and it wants him to pay the remaining balance of his mortgage, as well as the outstanding interest. It has shown us it's been asking him for this money, for quite a while.

Our service isn't the final arbiter of what a court order means. That would always be for a court itself to set out. So I don't think it would be appropriate for me to set out here what I think the order does. I just have to assess what's fair and reasonable in the circumstances of the case.

However, I have seen a copy of the court documents, including the order, and I don't think that Santander should have understood either that it couldn't charge interest after the date of the order, or that it was prevented by the order from recovering everything Mr S owed it. So I don't think it was unfair or unreasonable for Santander to have asked Mr S to repay the full debt, and to continue to pay interest, in line with the terms of the mortgage, until the full debt was repaid.

Having considered the documents put before the court, it looks as if Mr S already owed a bit more than the amount set out in the order, by the time this case came to court. The court documents explain that the amount Santander was asking for, of £43,420.63, was what Mr S owed as at 7 November 2019. But the case took a little while to come to court, and the debt was increasing during this time.

Mr S's statement for January 2020 said that he would have to pay Santander £44,053.40 if he wanted to redeem his mortgage. So he already owed more than the court ordered amount, by the time the case was heard. And there just isn't anything in the court order which I think Santander should have thought meant it either couldn't ask for this extra money, or couldn't charge interest on the whole debt, until it was repaid.

So I don't think it was unfair or unreasonable for Santander to ask Mr S to pay the whole debt, or to charge interest on the outstanding balance. That is, except for one point, which I'll come onto now.

I do think that something else has gone wrong here. When Mr S asked Santander's lawyers for the account details, so he could make payment, he wasn't given the information he needed on time. And the first time he was given payment details, they were wrong.

Santander has apologised for this delay previously. But what neither side looked at then, was the interest Mr S was charged during this time. I've explained previously why I think I am able to look at this now.

Mr S started to ask Santander's lawyers for the right payment details on Monday 1 June 2020. The payment was due by 10 June 2020. Mr S had a family member ready to make payment, and we know that this person tried to make payment of the full amount

when the first (incorrect) payment details were provided. I think it's likely that if Mr S had been given the correct payment details promptly when he requested them, his family member would have paid the full amount requested in the court order, in one payment, on Monday 8 June.

But the payment was delayed, so Mr S was charged interest on the full outstanding amount of his mortgage for an extra month. I don't think that's fair. So I think Santander should rework Mr S's mortgage now, as if it had received the court ordered sum of £43,156.20 in one payment on Monday 8 June 2020, instead of three payments on 7, 8 and 9 July 2020.

That won't clear all of Mr S's debt to Santander. And nothing in my provisional decision prevents Santander from asking Mr S to pay the rest of his debt.

I invited the parties to make any final points, if they wanted, before issuing my final decision. Only Mr S replied.

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.

Mr S replied to say that his mortgage was taken out with a building society, but transferred to Santander in 2008. Mr S said although his endowment mortgage had ended, he was paying a lot more than the interest, so he was reducing the mortgage amount every month.

Mr S said the service from Santander was very poor after his mortgage transferred there.

Mr S said when he went to court, he had already paid more, so he thought the amount of £43,156.20 was more than he then owed. Mr S also said that in court, the judge told him he didn't have to pay any more interest till the date of full payment. He said that was why he stopped making his monthly payment.

Mr S said Santander was now asking him to pay more, without being able to tell him why this extra amount was due. Mr S said Santander was just doing this because it could. He thought the merger of his building society and Santander might have left Santander in a worse financial position, and it was just trying to get the money back from him, with no justification for that. Mr S said that setting all this out was the only response he could make to me.

I realise that Mr S has a very different understanding of the effect of the court case to Santander. I said in my provisional decision that our service isn't the final arbiter of what a court order means. That would always be for a court itself to set out. That's why I didn't think it would be appropriate to set out in my provisional decision, what I thought the court order does. I still think that.

As I noted in my provisional decision, I just have to assess what's fair and reasonable in the circumstances of the case. And I said that, having seen a copy of the court documents, including the order, I didn't think Santander should have understood either that it couldn't charge interest after the date of the order, or that it was prevented by the order from recovering everything Mr S owed it.

That's why I said I didn't think it was unfair or unreasonable for Santander to have asked Mr S to repay the full debt, and to continue to pay interest, in line with the terms of the mortgage, until the full debt was repaid. I still think that, subject to the small amendment to Mr S's mortgage that I set out in my provisional decision above. And aside from that

amendment, which I explained above, I haven't seen anything in this case to make me think that Santander is asking Mr S for more money than he really owes it.

So I'm sorry to have to tell Mr S that I haven't changed my mind. I'll now make the decision I originally proposed.

My final decision

My final decision is that Santander UK PLC must rework Mr S's mortgage now, as if it had received the court ordered sum of £43,156.20 in one payment on Monday 8 June 2020, instead of three payments on 7, 8 and 9 July 2020.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 5 April 2024.

Esther Absalom-Gough
Ombudsman