

The complaint

Miss A complains that a car she has been financing through an agreement with Santander Consumer (UK) Plc (“Santander”) had pre-existing structural damage.

What happened

In May 2023 Miss A took receipt of a car. She financed the deal through a conditional sale agreement with Santander. At the point of supply the car was about four years old and had already completed about 50,000 miles.

Miss A says that the parking sensors were faulty when she took receipt of the car and that she contacted the dealership about them, but they took no action.

Miss A took the car to a third-party garage in, or around the beginning of August 2023. The garage noted there was some damage to the vehicle and suggested it existed before Miss A took receipt of the car. They said there was a major overspray on the front end and that the alignment of the bumper to the wings and bonnet was horrendous. A front panel was twisted and parts around the radiator were damaged. They added that there was also damage to the undertray.

Miss A complained to Santander, and they arranged for the car to be independently inspected. The inspector noted similar issues to those initially identified by the third-party garage. He agreed that there was, for instance, evidence that the front bumper had been resprayed, that the undertray had been pop riveted on, there was damage to the wheel arch and that the bumper was poorly fitted. The inspector thought it likely that the defects had been present when the car was supplied to Miss A.

Santander noted that Miss A had explained to them that she had had an accident in the car previously and they didn’t think they had sufficient evidence that that accident hadn’t been the cause of the problem. Neither did our investigator.

As Miss A disagreed, her complaint has been referred to me, an ombudsman, for 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.

I know it will disappoint Miss A, but I agree with the investigator’s opinion. I’ll explain why.

Where the information I’ve got is incomplete, unclear, or contradictory, as some of it is here, I have to base my decision on the balance of probabilities.

I’ve read and considered the whole file, but I’ll concentrate my comments on what I think is relevant. If I don’t comment on any specific point, it’s not because I’ve failed to take it on board and think about it but because I don’t think I need to comment on it in order to reach what I think is the right outcome.

Miss A acquired her car under a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The Consumer Rights Act (2015) is the relevant legislation. It says that the car should have been of satisfactory quality when supplied. If it wasn't then Santander, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances.

In a case like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Miss A. The car here was about four years old and had already completed 50,000 miles.

An old car with a high mileage will not be expected to be as good as a newer car with a low mileage, but it should still be fit for use on the road, in a condition that reflects its age and price.

I don't think this sort of damage could be considered satisfactory if it was present when the car was supplied to Miss A. But I don't think I have sufficient evidence to suggest it was present at that time. Miss A told Santander that she'd had an accident in the car when she complained to them about the vehicle. The dealership explained that Miss A had told them about that accident too.

I've not been provided with details of what was damaged, or repaired, as a result of that accident but Miss A has explained that it was the result of a front-end collision. It seems more likely than not to me that the damage reported is the result of that collision rather than being damage that existed on the car before it was supplied to Miss A. I say that because the damage is quite extensive and I think, at least some of it, would be visible to the untrained eye. The independent inspector explained, for example, that there was masking tape and polystyrene present and that appears to be visible on one of the photographs provided by the third-party garage. While the third-party garage has suggested the damage was pre-existing I don't think they can be considered independent in this case as they were being paid by Miss A to complete work. The independent inspector suggested that the damage was likely to be pre-existing, but he hadn't been made aware that Miss A had had a previous accident.

Miss A says she complained to the dealership about a problem with the parking sensors and if it wasn't for that problem she wouldn't have had an accident in the car. I've not seen any evidence to corroborate that assertion and, even if I had, I don't think it would be fair to suggest I had sufficient evidence that poorly functioning parking aids had caused the accident.

Overall, taking everything into account, I don't think I have sufficient evidence to persuade me that the damage was present on the car when it was supplied or that, Santander are, therefore, responsible for rectifying it or allowing Miss A to reject the vehicle.

My final decision

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 12 September 2024.

Phillip McMahon
Ombudsman