

complaint

Mrs D complains that a car purchased by her husband using her credit card account was not fit for purpose. She considers that this is a breach of contract for which Barclays Bank Plc is liable under section 75 of the Consumer Credit Act 1974 ("section 75"). Mrs D considers that Barclays should reimburse her for the cost of repairing the car.

our initial conclusions

Our adjudicator did not recommend that the complaint should be upheld. She was satisfied that there was no valid debtor-creditor-supplier ("d-c-s") relationship in this case. On this basis she said that Barclays had no liability to Mrs D under section 75.

Barclays said it accepted this recommendation. Mrs D did not. She said her husband deals with all things car related in their household and was acting on her behalf in using her account to purchase the car. She also submitted a number of documents that she considered demonstrated that the car is hers and not her husband's.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

there is no valid claim under section 75 in this complaint

The general effect of section 75 is that if Mrs D has a claim for misrepresentation or breach of contract against the supplier she can also bring that claim against Barclays. But section 75 does not offer blanket protection. That is, just because her credit card account was used to pay for the goods, does not mean she can make a claim against Barclays. This is because section 75 only applies where specific conditions are met. One of these is that there must be a valid d-c-s relationship.

The difficulty here is that whilst Mrs D's account was used to make the payment, the invoice was made out in her husband's name and he is described as the "*purchaser*". From the submissions provided it is evident that Mr D paid the deposit and dealt with all aspects of the purchase including arranging an additional warranty in his name. He then also initially raised the complaint and commissioned the experts' report.

While I am persuaded that the car was initially intended to be used mainly by Mrs D, from her submissions I can't conclude that there was ever any intention for her to be party to the contract. Rather, it appears that her husband was the contracting party.

I recognise that Mrs D may consider that this is all very unfair. Because she says the car was initially intended to be used by her and there were clearly problems with it. But the provisions of section 75 are very clear and I cannot fairly say based on the information I have that Mrs D was party to the contract for the purposes of section 75.

It follows I consider that there is no valid d-c-s relationship and Barclays is not liable to Mrs D under section 75.

my final decision

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

Joyce Gordon
ombudsman