NAB In Trouble Again - Payout Malpractice Rife

Summary:
Elliot Sgargetta - in a David versus Goliath battle - Seeking his day in the High Court to find justice against NAB - the bank that tried to force a trapped customer to pay an extra $24,000 on a loan payout. Now NAB want to take his house. Elliot has put six years of his life into this. NAB and the other banks are in big trouble if Elliot can set an important precedent.

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NAB - Under Fire For Mortgage Payout Abuses

Hot on the heels of the Parliamentary inquiry into the Commonwealth Bank's financial planning division, Australia's major banks are under fire again.

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This time, it is the practice of making last-minute changes to mortgage payout notices when customers are trying to close out their home loans.

Lawyers say the practice has been going on for years, causing distress and inconvenience to borrowers on settlement day.

One aggrieved customer, Elliot Sgargetta, has spent six years fighting the National Australia Bank over his disputed payout notice, and now stands to lose hundreds of thousands of dollars in escalating legal costs.

In 2008, Mr Sgargetta was about to sell his home in the Dandenong Ranges, on Melbourne's outskirts, and re-finance a new property.

Three weeks before settlement, NAB sent him a payout notice, advising he would need to repay "approximately $299,000" to close out his existing mortgage.

But with settlement looming, and a raft of logistical and financial arrangements in place, he was suddenly blind-sided.

"I got a call on the Friday evening from a National Australia Bank employee that informed me that they'd made a mistake on that payout notice and required an extra $24,000 by Monday morning," Mr Sgargetta said.

"Otherwise, settlement wasn't going to occur."

That sparked a six-year legal dispute, which is still running.

This year, both the Victorian County Court and the Supreme Court's Court of Appeal found in favour of NAB.

But despite spending most of his time working on the case and representing himself in court, with the aid of eight pro-bono barristers over the years, Mr Sgargetta is refusing to give up.

He is now working on an appeal to the High Court.

"We were in unconditional contracts, we were stuck. So they knew that one way or another we had to capitulate in some way," he said.

Last-minute payout changes cause 'huge amounts of distress'

The law requires banks to provide a mortgage payout amount within seven days of a borrower's request.

However, often an estimate is provided first, and the final figure is not confirmed until 11:00am on the day of settlement.

The banks explain the late changes as an "economic adjustment" to cover the cost of ending a loan early.

But one lawyer, who spoke to the ABC on condition of anonymity, said last-minute changes to payout notices are common, and can leave borrowers stranded.

"Huge amounts of distress. You have to re-organise settlement and the settlement date. All the cheques have to be re-drawn and altered, you have removalists, you have people who have packed up their boxes," the lawyer said.

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He said that within the conveyancing industry, there is a feeling that some banks are exploiting the system more than others.

"[Conveyancers] are very tempted to say, 'Which bank are you dealing with? Well, in that case the fee will be $1,000. If you're dealing with this other bank, it'll be $1,500, to factor in the pain and suffering," he said.

In a statement to the ABC, a spokesman for NAB said the bank "has always been willing to work through issues with the customer".

"However, due to privacy and confidentiality obligations, we are unable to go into detail about the specifics of this matter.

"As the public record shows, this matter has been considered by the Financial Ombudsman Service (31 March 2010), the County Court of Victoria (17 February 2014) and the Victorian Supreme Court of Appeal (30 July 2014), and each determination was found in NAB's favour."

Mr Sgargetta lost his mortgage broking business because of the dispute, and now NAB is taking steps to repossess his home.

"It's been horrific. I've got a three-year-old son, my wife's due to give birth in the next few weeks, and I'm stuck fighting and addressing all these legal processes," he said.

Lawyers say there is a glaring hole in the law which needs to be fixed, and neither the Financial Ombudsman Service nor the Australian Securities and Investments Commission is much help in cases like this.

But for Mr Sgargetta, what started as a dispute over $24,000 could end up costing him several hundred thousand dollars more, if NAB recovers six years' worth of legal fees from him as well.

Websites For More Information: Banks Under Fire Over Last-minute Changes To Mortgage Payout Notices
http://www.abc.net.au/news/2014-09-04/banks-under-fire-over-last-minute-loan-payout-changes/5720516
The Business - ABC Video - Settlement Day Disasters
http://www.abc.net.au/news/2014-09-04/banks-under-fire-over-last-minute-loan-payout-changes/5720516

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