

Judicial Review ruling delivers justice for mis-sold fractional timeshare owners

Following a Financial Ombudsman Services ruling that fractional ownership sales were mis-sold, banks who facilitated sales requested a Judicial Review

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[/EINPresswire.com/](https://EINPresswire.com/) -- Following a Financial Ombudsman Services (FOS) ruling that 'fractional ownership' timeshare sales were mis-sold, the banks who facilitated these sales tried to force a restart to the process via a Judicial Review.

The Judicial Review has upheld the FOS decision. The banks who provided finance are likely to be ordered to cancel the loans and repay the money.

Fractional Ownerships

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Ben Hawkins - Director of M1 Law



Royal Courts of Justice: Where the Judicial Review upheld the Ombudsman's decision

Timeshare ownership has long been seen as restrictive and poor value for money. Evolution was needed if developers were going to rekindle interest in a holiday system whose commercial appeal had dropped to negligible levels.

One major disappointment for regular timeshare buyers is the fact that despite costing sometimes tens of thousands of pounds, memberships become virtually financially worthless and unsellable from the moment of sale. This is

largely because, despite inferences to the contrary, timeshare does not confer actual ownership of property. Instead members own the right to rotational occupancy, which translates into little more than a commitment to stay in certain apartments every year and to pay for the privilege of

doing so.

A new product called fractional ownership was developed. It works more or less the same way as regular timeshare but with one major difference: It is attached to a partial ownership of an actual property. The pitch is that after an agreed amount of time the property will be sold and the proceeds split between the remaining owners.

But does this break laws that forbade selling timeshare as an investment?

Original decision

A lot of consumers and industry experts believe so. Hundreds of complaints have flooded in to the Financial Ombudsman Service in the UK

In order to deal with the large volume of cases, the Ombudsman chose two representative (or lead) cases back in 2021 and investigated. The results would be significant as bellwether indicators for the remaining complaints.

The Financial Ombudsman's ruling was that: yes. These memberships were mis-sold.

Consumer victory

This decision had implications for the banks who financed the mis-sold fractional timeshares. They were likely to be held responsible for their part in enabling the sales.

The mis-sold consumers, some of whom had suffered enormously, would be in line to receive



M1 Law - Passionate about putting things right through consumer claims



Ben Hawkins

justice in the form of having their lost money returned, potentially with interest added.

There were already hundreds of claims registered with the FOS. Once it became clear that fractional memberships had been mis-sold then a tidal wave of similar claims against the banks was likely to follow.

A similar case in 2021 involved one bank (Barclays) and one resort (Maltese company - Azure) and may have cost the bank an estimated £229 million pounds in cancelled loans and refunds.

These new complaints involve multiple banks/credit providers and multiple timeshare resorts, meaning that the sums involved this time could be even larger.

Pushback from the banks

Unfortunately for the the banks, an Ombudsman's decision is final and there is no route for appeal on grounds of merit.

The only possibility to challenge the decision was to apply to the High Court and request a Judicial Review.

A Judicial Review has no power to challenge anything other than the process itself. It can check to make sure that the Ombudsman acted within their authority, and made no legal errors when coming to their decision.

The best possible outcome for the banks, from a Judicial Review, would be that the decision would be reverted to back to the FOS to be ruled on again.

Initially the request for a Judicial Review was refused. Eventually Barclays and Shawbrook were given permission and the review took place in March 2023 before the Honourable Mrs Justice Collins-Rice.

On the 5th of May 2023 the judge handed down her decision. It is 58 pages long and necessarily goes into minute detail about every aspect and challenge. The crucial part for everyone concerned are the final 2 lines at the bottom of page 58:

* (b) Decision

* 192. Both claims for judicial review are dismissed

The banks lost their Judicial Review. The Ombudsmen's decision that the fractional ownerships were mis-sold has been upheld.

What this means:

This is the worst case scenario for these banks, as well as all other banks who have financed fractional ownership purchases.

They have to all intents and purposes reached the end of the road. Barring a potential request for permission to challenge the Judicial Review, they will now have to start preparing to refund enormous amounts of money to mis-sold victims of several major timeshare developers.

Ben Hawkins, director of M1 Law, a UK solicitor firm that specialises in timeshare compensation claims, comments: "This is fantastic for these consumers. We have argued for some time that fractional timeshares were being mis-sold, and that the banks who provided finance for this product were, perhaps unknowingly, enabling the process.

"Anyone who was sold a fractional timeshare ownership and paid/is paying with finance should seek advice based on this ruling as a matter of urgency."

Timeshare issues

[M1 Law is a leading voice in the fight for timeshare consumer justice](#). For advice on timeshare, and other [consumer claims](#), get in touch with our team during business hours, Monday to Friday.

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