

Attention: the five-year dividend limitation period.

In the case presented below, the owner of the shares was unaware of the five-year limitation period. It is important to know this rule to avoid the risk of losing your rights.

However, this case also illustrates one of the interests of mediation, namely that it can intervene not only legally but also in fairness. In this case, the non-payment of dividends after five years stemmed from an internal dysfunction at the bank and could therefore be resolved to the benefit of the holder.

The facts

On 28 February 1995, Mr. C. purchased shares of company X through his bank branch. Mr. C. subsequently changed residence in 1997 and transferred his accounts to another branch of the same credit institution, which thus registered his new address. In 1998, Mr. C., while being a novice in this field, asked his new adviser to convert these shares to direct registered shares, which were delegated by company X to this bank's specialised "securities" department.

In 2016, Mr. C. converted another company's bearer shares to direct registered shares, the latter delegating the holding of the share register to bank B, and received, at the end of the year, all the information concerning his securities. He was then surprised that he had never received any information about his X shares delegated to Bank A since 1998.

Mr. C. approached Bank A to find out why he had never received any information. This bank's specialised "securities" department responded by stating that it was never informed of his change of address in 1997. Therefore, his file was classified in this department's books as being "NPAI - does not live at the address indicated". However, in such a case, the information and associated payments are then put on hold pending reception of an up-to-date postal address, which has been the case for all its dividends. As it is required by law to prove the identity of a holder in advance so that a settlement can be made in his favour, the specialised "securities" department blocked the payment of all the dividends.

After correcting Mr. C.'s postal address, the specialised securities department regularised the dividend payments, but only for the years 2013, 2014, 2015, 2016, and 2017. This department then specified that dividends unclaimed within five years from the date of their payment were prescribed and were to be returned to the Treasury¹.

Thus, Mr. C. did not receive the dividends attached to the X shares over the period from 1998 to 2012. Considering that this institution lacked diligence given he was a novice in the matter and that his new bank branch had registered his new address in 1997, a year before the request for the conversion of securities, Mr. C. made an initial claim to bank A, which remains unresolved.

¹ Pursuant to Articles L.1126-1 and L.1126-2 of the General Public Property Code

In these circumstances, he referred the matter to me in order to obtain compensation for the harm he claims to have sustained, considering that he should not have to be the victim of an internal dysfunction at the institution.

The analysis

I interviewed Bank A and asked it to share its observations.

This bank initially told me that the anteriority of the facts meant that it was unable to find any supporting documents that would have corroborated or inquired the claims made by Mr. C.

This institution subsequently confirmed that it had restored only the dividends subsequent to 2012, as per the five-year limitation period.

The recommendation

Bank A, following my intervention, for the sake of conciliation, and given the lack of coordination between the bank branch and the “securities” department in updating Mr. C.’s postal address, agreed to pay, in all fairness and not legally, the sum of €1,540 corresponding to the dividends attached to the shares over the period from 1999 to 2012.

The lesson to be learned

This one is twofold.

On the one hand, this case highlights the rule of the General Public Property Code which states that dividends that are not claimed within five years from the date of their payment are prescribed and remitted to the State.

On the other hand, this case reminds professionals of the importance of ensuring that all the address details for its customers are kept up to date, so as not to have to make, if necessary, a conciliatory gesture when faced with understandable, albeit belated, customer discontent².

² See the case for September 2017