

Repossession of vehicles gets easier for banks

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Thursday, April 30, 2009 3:28 IST

Mumbai: A couple of years ago, Prakash Kaur moved the Supreme Court, challenging a leading bank's move to take away his car. The bank argued that it took the vehicle into custody as Kaur was not repaying the loan he had taken to buy the car.

The apex court ruled in favour of Kaur and many other such borrowers, creating a dilemma on when exactly a bank can take away a borrower's vehicle.

Bankers say misinterpretations of the Supreme Court order had brought repossessions (banking jargon for takeover of a vehicle or asset for which a person has taken a loan and is repaying it) to a halt as the verdict was "heavily biased in favour of the defaulting borrower."

However, now regulatory clarity has improved the situation and may give a fillip to the auto lending activity, bankers say.

The Reserve Bank of India draft guidelines on April 24, 2009, ask NBFCs to include clauses in the loan document on the process and the conditions under which their vehicle can be repossessed in case of default.

Mahesh Thakkar, general secretary, Finance Industry Development Council (FIDC), said the RBI guidelines provided for a clear distinction between recovery agents and repossession agents, which the industry was seeking.

The recovery agent is behind the defaulter, whereas the repossession agent is behind the underlying security, in this case the vehicle. "We are repossession agents, often mistaken to be recovery agents and this created a problem for us in the last 3-4 years," he said.

Govind Sankaranarayanan, chief financial officer, Tata Capital, said, "The draft guidelines attempt to formalise the means with which repossession of secured asset can be done. We have always been having a clear clause in the loan document on the procedure for repossession."

On whether the RBI notification will provide a fillip to auto lending, Sankaranarayanan said, "Now that there are formal guidelines from RBI, it will provide some degree of comfort to lend. It is a step in the right direction."

Meanwhile, the Indian Banks' Association (IBA) is in a process of issuing a clarification on the issue. Asked whether lending activity would increase in case the IBA clarification comes in, the head of loans at a leading bank said, "It should, because the financials will become easy on credit."

"We finance both old and new vehicles and the margins are very high in old-vehicle financing. With the code of conduct in place, even marginal cases will get clearance from the credit departments. This will definitely boost auto financing, especially for commercial vehicles."

Ramesh Ayer, managing director, Mahindra Finance, said the confusion over how, when and who can repossess will now be erased. "With the RBI guidelines, legally enforcing the document becomes easy. Also, when matters are taken to the court, the case will become stronger for us as all the clauses will now be clearly mentioned in the contract," he added