



23 April 2021

## PRESS SUMMARY

**Rittson-Thomas and others (Respondents) v Oxfordshire County Council (Appellant)**  
**[2021] UKSC 13**  
*On appeal from [2019] EWCA Civ 200*

**JUSTICES:** Lord Lloyd-Jones, Lady Arden, Lord Sales, Lord Burrows, Lord Stephens

### BACKGROUND TO THE APPEAL

The School Sites Act 1841 (the “**1841 Act**”) provided landowners with an easy way to donate up to one acre of land for educational purposes, in particular as a site for a school. This appeal concerns how, if the school later moves to a new site, the original site can be sold to help pay for the costs of the new school. Although there appears to be no official record, a Law Commission working party estimated in 1981 that the number of schools falling within the 1841 Act and still on their original sites, and so potentially affected by this appeal, probably exceeded 2,000.

The school in this case is Nettlebed School in Oxfordshire. In 1914 and 1928, Mr Fleming conveyed land in Nettlebed to Oxfordshire County Council as a site for an elementary school (the “**Fleming site**”). The school expanded, and in the 1990s the Council decided it should relocate to a new building with improved facilities. The Council’s plan was to sell the Fleming site, after the move, to help pay for the costs of the new school premises. In February 2006 the pupils moved to the new premises and, in September 2007, almost all of the Fleming site was sold to a property developer for £1,243,819.50.

Four of Mr Fleming’s heirs brought a challenge against the Council. They claimed that, under the 1841 Act, any land donated for the establishment of a school reverted to the landowner (or his or her heirs) the moment that land ceased to be used for the purposes of the school. That moment had arrived when the Council moved the pupils to the new premises in February 2006 – the Fleming site had been left empty and was no longer being used for the purposes of Nettlebed School. The 1841 Act required the site to be sold before the school was moved, not after. Thus, the Council had been holding the Fleming site on trust for the heirs when it was sold, and had to transfer the £1,243,819.50 over to them. The Council disagreed, arguing that it had always been the Council’s intention to apply the proceeds of sale to the new premises and that, practically, the pupils needed to move before the old site was sold.

The heirs’ claim was rejected in the High Court, but that decision was reversed by the Court of Appeal. The Council appealed to the Supreme Court.

### JUDGMENT

The Supreme Court unanimously allows the appeal. The Fleming site had not ceased to be used for the purposes of Nettlebed School, even after the school had moved, as it was always the Council’s intention to use the proceeds of the sale to pay off the cost of the new school premises. Lady Arden and Lord Burrows jointly give the judgment, with which the other members of the Court agree.

## REASONS FOR THE JUDGMENT

Two sections of the 1841 Act lie at the heart of this appeal. Section 2 provides that a landowner may donate up to one acre of land for various educational purposes, including the establishment of a school, by means of a statutory charitable trust. However, if the land ceases to be used for those purposes, it is returned (through a trust of land) to the landowner, or his or her heirs (a “**section 2 reverter**”) [18]. Section 14 provides that, should the school need new premises, the school’s trustees have the power to sell or exchange the land which had been given for the school so as to enable the school to move to a different site [19]. Sale under section 14 can only occur if there has not already been a section 2 reverter. The issue in this case is whether the permanent closure of a school on the original site in preparation for sale gives rise to a section 2 reverter that ends the statutory charitable trust, with the effect that the trustees cannot use the sale proceeds to pay for the costs of the new school premises [20].

The Court first considers the principles of statutory interpretation to be applied to sections 2 and 14. The most important past case is *Fraser v Canterbury Diocesan Board of Finance (No 2)* [2005] UKHL 65; [2006] 1 AC 377 [26]. That case decided that, as the 1841 Act is concerned with charitable purposes, section 2 had to be interpreted by applying a “broad and practical approach” [29]. This approach should apply equally to section 14 [31].

It is a general principle of modern statutory interpretation that a court should seek to give effect to Parliament’s purpose [33]. A court should also avoid interpreting statutory provisions in isolation from other relevant provisions. In this case, sections 2 and 14 should be interpreted as forming part of a coherent legislative scheme. [34]. Further, the 1841 Act was drafted in the less rigorous style which was normal before the creation of the Office of the Parliamentary Counsel in 1869. This lends further support to taking a broad approach to the interpretation of the statute [35].

The Court then considers the balance struck in the 1841 Act between the potentially conflicting interests of the original grantor (and his or her heirs) and the public. At one time, it appears to have been thought that the protection of the grantor’s interests should prevail, so that the primary focus was on protecting the section 2 reverter. However, this neglected the role of section 14, which clearly envisaged that the trustees might dispose of the site free of the section 2 reverter [37]. In any event, the courts should lean towards the continuation of the charitable educational purposes set out in section 2 rather than being astute to find that those purposes have failed, thereby triggering a section 2 reverter [39]. Moreover, to interpret the 1841 Act as meaning that there is a section 2 reverter wherever the site is sold with vacant possession serves to encourage courses of action that might have potentially unfortunate effects, whether educationally or financially [48].

Pulling these threads together, the Court concludes that the Fleming site was not ceasing to be used for the purposes of Nettlebed School when the school moved to the new adjacent site, because there was an intention throughout by the Council to use the proceeds of sale of the land to pay off the cost of the new school premises. No section 2 reverter was triggered [49]. As a general proposition, the site of a school does not cease to be used for the purposes of section 2 where at all material times it is considered advisable to sell the site and to apply the money arising from the sale for other premises used or to be used for the school [50(vii)]. The appeal is, therefore, allowed [51].

*References in square brackets are to paragraphs in the judgment*

### **NOTE**

**This summary is provided to assist in understanding the Court’s decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at:**

<http://supremecourt.uk/decided-cases/index.html>