Press Summary

26 February 2025

Brown (Respondent) v Ridley and another (Appellants)

[2025] UKSC 7

On appeal from: [2024] UKUT 14 (LC)

Justices: Lord Briggs, Lord Hamblen, Lord Stephens, Lady Rose, Lady Simler

Background to the Appeal

This is a case about adverse possession. Mr Brown (the respondent) is the registered owner of land lying to the west of the Promenade, Consett, County Durham, which he purchased in September 2002 (the "**Brown land**"). Mr and Mrs Ridley (the appellants) are the registered owners of a neighbouring plot of land, which they purchased in July 2004 ("**Valley View**").

A previous owner of Valley View had put up a fence and planted a hedge along what he understood to be the boundary between the Brown land and Valley View, but which (as the parties now agree) actually enclosed part of the Brown land as registered (this strip of land being the "**disputed land**").

The Ridleys used the disputed land first as part of their garden and later as part of the site for the erection of a new house (into which they eventually moved). Planning permission for the new house was granted in early 2018. The fence and hedge were removed later that year in preparation for the necessary construction work.

In October 2019, Mr Brown gave notice to the Ridleys that he considered the construction work to be in breach of the Party Wall etc. Act 1996. In December 2019, the Ridleys applied to the Land Registry to be registered as the owners of the disputed land on the grounds that they had been in adverse possession of it for the required period of time per the Land Registration Act 2002. Mr Brown objected to their application.

The Land Registry referred the matter to the First-Tier Tribunal, which sided with the Ridleys. Mr Brown appealed, and won in the Upper Tribunal, which considered itself bound by Court of Appeal precedent (*Zarb v Parry* [2011] EWCA Civ 1306, [2012] 1 WLR 1240). The Ridleys appealed to the Supreme Court via the 'leapfrog' procedure (jumping over the Court of Appeal).

The issue before the Supreme Court was whether the ten years of reasonable belief of ownership required for registration under paragraph 5(4)(c) (see below) of Schedule 6 to the Land Registration Act 2002 (the "**LRA**") had to be the ten years prior to the date of the

application, or whether it could be any ten years within the period of adverse possession. That mattered, because the First-Tier Tribunal had found that the Ridleys had only reasonably believed that they owned the disputed land until around February 2018, roughly 21 months before they made their application.

Judgment

The Supreme Court unanimously allows the appeal. Lord Briggs, with whom the other justices agree, gives the judgment. Properly construed, the words of paragraph 5(4)(c) of Schedule 6 to the LRA meant that any ten-year period of reasonable belief was sufficient.

Reasons for the Judgment

A person who has been in adverse possession of registered land may, after ten years, apply to the Land Registry to be registered as the owner of that land. If the registered owner opposes that application, the applicant must be able to meet one of three conditions – set out in paragraph 5 of Schedule 6 to the LRA – if they are to be successful. The relevant condition in this case was the third – under paragraph 5(4)) **[2]**:

> *"(a) the land to which the application relates is adjacent to land belonging to the applicant,*
>
> *(b) the exact line of the boundary between the two has not been determined under rules under section 60,*
>
> *(c) for at least ten years of the period of adverse possession ending on the date of the application, the applicant (or any predecessor in title) reasonably believed that the land to which the application relates belonged to him, and*
>
> *(d) the estate to which the application relates was registered more than one year prior to the date of the application."*
>
> (Emphasis added.)

Statutory interpretation requires the court to work out the objective intention of Parliament as manifested by the words it has used, interpreted in the context of the legislation as a whole and with regard to its underlying purpose. Here, the words in question (underlined above) formed part of a reform to restrict the scope for acquiring land by adverse possession, but not remove it altogether (the pre-LRA regime gave significantly less protection to registered owners) **[23]**.

However, given that sub-paragraphs (a) and (b) of paragraph 5(4) restricted the application of the 'reasonable belief' condition to situations where the dispute was about land close to an imprecisely defined boundary, there was no need to impose an unduly narrow reading on (c) **[24]**.

Crucially, the difficulty with the respondent's preferred interpretation, that the ten years needed to be the ten years ending on the date of the application, was that it appeared to require the adverse possessor to make their application immediately upon the ending of their reasonable belief. That seemed unrealistic and unattractive (encouraging disputes between neighbours) **[25]–[27]**.

To try to solve this problem, the respondent suggested that the *de minimis* principle (the idea that the law is not concerned with trivialities) would apply to enable an applicant to wait a month or two after the ending of their reasonable belief before filing their application, even though there was no basis for this in the language of the statute. But such an extension would not be trivial and, among other things, contrasted sharply with the way that grace periods were

provided for – either expressly or by necessary implication – in other statutory provisions concerned with adverse possession **[29]–[35]**.

In short, not only did the words of the provision themselves tend to favour the appellants' construction, but the respondent's construction would have had the drastic consequence of making the route to registration provided for by paragraph 5(4)(c) largely illusory **[37]–[38]**.

Finally, the respondent suggested that human rights considerations – in particular Article 1 of Protocol 1 (protection of property) of the European Convention on Human Rights ("**A1P1**") – meant that any ambiguity in the language of the statute should be resolved in favour of the interpretation that would result in less expropriation (i.e. less scope for people to gain registered title through adverse possession). But there was no such rigid rule of interpretation, and it was clear that the adverse possession regime under the LRA was compliant with A1P1 on either construction, given that the European Court of Human Rights had concluded that the much more expropriatory pre-LRA regime was so compliant in the case of *JA Pye (Oxford) Ltd v United Kingdom* (2008) 46 EHRR 45 **[43]–[44]**.

References in square brackets are to paragraphs in the judgment.