



1 December 2009

## PRESS SUMMARY

**Secretary of State for Environment, Food and Rural Affairs (Respondent) v Meier and another (FC) (Appellant) and others and another (FC) (Appellant) and another [2009] UKSC 11**  
*On appeal from the Court of Appeal (Civil Division) [2008] EWCA Civ 903*

**JUSTICES:** Lord Rodger, Lord Walker, Lady Hale, Lord Neuberger and Lord Collins

### BACKGROUND TO THE APPEAL

A number of travellers established an unauthorised camp in Hethfelton, one of the woods managed by the Forestry Commission and owned by the Secretary of State for Environment, Food and Rural Affairs.

The Secretary of State sought an order for possession in respect of Hethfelton and other specified woods (also managed by the Commission and owned by the Secretary of State) which had not yet been occupied by the defendants to the claim. The Secretary of State also sought an injunction against the same defendants restraining them from re-entering Hethfelton and from entering the other woods.

The Recorder before whom the claim came decided to grant an order for possession against the defendants in respect of Hethfelton, but not in respect of the other woods. The Recorder also refused to grant the injunction sought. The Court of Appeal allowed the Secretary of State's appeal against the Recorder's refusal to grant the order for possession in relation to the other woods and against his refusal to grant the injunction. The defendants appealed.

### JUDGMENT

*The Supreme Court unanimously allowed the defendants' appeal to the extent of setting aside the wider possession order made by the Court of Appeal.*

### REASONS FOR THE JUDGMENT

- Two main questions were before the Supreme Court:
  - (1) Whether a court could grant an order for possession in respect of distinct land not yet occupied or possessed by a defendant.
  - (2) Whether a court should grant an injunction restraining a defendant from trespassing on other land not currently occupied by him.
  
- On the first main question, the Supreme Court unanimously agreed that a court could not make such an order. Lord Rodger considered that such an order would be inconsistent with the fundamental nature of an action for recovering land because there was nothing to recover (**Para 12**). Lord Neuberger, who agreed with Lord Rodger on this question, thought that it did

not make sense to talk about a defendant being required to deliver up possession of land where the defendant did not occupy such land in any conceivable way, and the claimant enjoyed uninterrupted possession of it (**Paras 64, 74 and 78**). Lords Rodger, Walker, Neuberger and Collins all thought that the Court of Appeal in *Secretary of State for the Environment, Food and Rural Affairs v Drury* [2004] 1 W.L.R. 1906 had illegitimately extended the circumstances in which an order for possession could be made (**Paras 5, 20, 72 and 96**). Lady Hale's main objection to extending an order for possession in respect of distinct land which had not actually been intruded upon was one of natural justice. According to Lady Hale, the main problem with the current form of the usual order was that it was not specifically tailored against known individuals who had already intruded upon the claimant's land, were threatening to do so again, and had been given a proper opportunity to contest the order (**Paras 38 and 40**).

- On the second main question, Lord Rodger, Lady Hale and Lord Neuberger agreed that the majority in the Court of Appeal were right to grant an injunction in this case. Lord Neuberger, with whom Lord Rodger agreed on this question, noted that neither the Recorder nor the Court of Appeal had concluded that an injunction should be refused on the ground that it would not be enforced by imprisonment (because the defendants were vulnerable or had young children) or because it would have no real value (since travellers usually have few assets). The Court of Appeal had not erred in granting the injunction (**Para 84**). Lord Neuberger was also of the view that the failure by the Commission to comply with the "Guidance on Managing Unauthorised Camping" issued by the Office of the Deputy Prime Minister should not preclude the granting of an injunction to restrain travellers from trespassing on other land (**Paras 87 and 91**). Lady Hale thought that the more natural remedy to deal with separate land which had not yet been intruded upon was an injunction against that intrusion, and one should not be unduly hesitant in granting that (**Para 39**).

#### *Further comments*

- Observations were made to the effect that there may be a need for reform of the remedies available in this area (**Paras 18, 40 and 94**).

#### **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: [www.supremecourt.gov.uk/decided-cases/index.html](http://www.supremecourt.gov.uk/decided-cases/index.html)**