

Rittson-Thomas and others v Oxfordshire County Council [2021] UKSC 13

Land had originally been conveyed in 1914 and 1928 to Oxfordshire County Council (OCC) as a site for a school for children of the parish under the School Sites Act 1841 (SSA 1841). However, the Reverter of Sites Act 1987 substituted a trust mechanism for the reverter, so that if a site ceases to be used for the permitted purpose, the holder of the legal estate holds it on trust for those who would have been entitled to the reverter.

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A reverter is not triggered when a school is closed prior to its sale if there is an intention to use the sale proceeds to pay off the cost of new school premises.

Facts

Land had originally been conveyed in 1914 and 1928 to Oxfordshire County Council (OCC) as a site for a school for children of the parish under the School Sites Act 1841 (SSA 1841). This originally meant that, under section 2 SSA 1841, the grantor's interest in the land would revert to him (or his descendants) when the land ceased to be used as a school. However, the Reverter of Sites Act 1987 substituted a trust mechanism for the reverter, so that if a site ceases to be used for the permitted purpose, the holder of the legal estate holds it on trust for those who would have been entitled to the reverter.

OCC borrowed money to build a new school on a site which it already owned and which was adjacent to the site of the original school. In February 2006, OCC closed the original school and transferred the pupils to the new school. In September 2007, OCC sold the site of the old school to a property developer for £1,355,000. 93.17% of the land sold was potentially subject to the reverter. OCC proposed to use the proceeds of sale to repay some of the loan.

The descendants of the original grantor (RT) claimed that OCC held 93.17% of the sale proceeds on trust for them. OCC denied this, arguing that section 14 SSA 1841 applied. Under this section, OCC had power to sell or exchange the school land for a more convenient or eligible site and to apply the proceeds of any such sale or exchange to purchase another site or improve other premises.

Issue

Did the closure of the original school prior to its sale trigger the reverter (as the Court of Appeal had decided)?

Decision

The site of the original school did not cease to be used for the purposes of a school when the school moved to the adjacent site because there was an intention throughout for OCC to use the proceeds of sale of the land to pay off the cost of the new school premises. Section 14 SSA 1841 allowed a school site to be sold with vacant possession (i.e. after closure of the school) and the proceeds of sale used to pay off the costs of developing a new site. No reverter had therefore been triggered.

Points to note/consider

1. Rights of reverter arose in the 19th century under various pieces of legislation as an encouragement to the public to dedicate land for public purposes. For example, under section 2 SSA 1841, land not exceeding one acre could be dedicated as a site for a school for

the education of poor persons (or for other specified purposes).

2. This decision is clearly good news for schools looking to sell a site to relocate the school. A reverter will not arise as long as there is a continuing intention to use the sale proceeds for the purchase of another site (or the improvement of other premises) both at the time the school is closed and at the time it is sold. It is though important to ensure that this continuing intention is fully documented at all times (as OCC had done in this case).

The case is also a useful reminder generally for any sellers of former school sites to check for the existence of any such rights of reverter, since the sale proceeds may not belong to the seller, but will instead be held on trust for those who would have been entitled to the reverter (in 1981, a Law Commission working party estimated that the number of schools falling within the SSA 1841 probably exceeded 2,000).

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