[2017] UKFTT 0712 (PC)

**REF/2016/0267**
**REF/2016/0268**

**PROPERTY CHAMBER, LAND REGISTRATION**
**FIRST-TIER TRIBUNAL**

**LAND REGISTRATION ACT 2002**

**IN THE MATTER OF A REFERENCE FROM HM LAND REGISTRY**

**BETWEEN**

**Amaravathy Perinpanathan**

**APPLICANT**

**and**

**1) Official Receiver as Trustee in Bankruptcy of Peter Popat 2) Peter Popat**

**RESPONDENTS**

**Property Address: Land On The North Side Of Greenhill Way, Wembley**
**Title Number: NGL665108**

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**ORDER**

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IT IS ORDERED as follows:

The Chief Land Registrar is to give effect to the Applicant's application dated 17 September 2015 to for registration of title as if the Respondents' objections had not been made.

Dated this 27 September 2017

Elizabeth Cooke

BY ORDER OF THE TRIBUNAL

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**DECISION**

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*Adverse possession – bankruptcy – procedure: reasons for refusing an adjournment*

1. The Applicant, Mrs Amaravathy Perinpanathan, has applied to be registered as proprietor to an area of land which forms roughly half of the back garden of 14 The Paddocks, Wembley; she says she is entitled to be registered, having acquired title by adverse possession. The Second Respondent, Mr Peter Popat, is the registered proprietor of the disputed land. The First Respondent is the Second Respondent's trustee in bankruptcy. Both Respondents objected to the Applicant's application for registration. The dispute was referred to the Land Registration Division of the First-

tier Tribunal pursuant to section 73(7) of the Land Registration Act 2002 ("the LRA 2002").

2. At a hearing in Alfred Place on 12 September the Applicant was represented by Mr Aaron Walder of counsel and the Respondent by Ms Victoria Prime, Assistant Official Receiver; Mr Popat was not legally represented, but was accompanied by his son who spoke for him at more than one point during the hearing. I am grateful to all for their assistance. The hearing was preceded by a site visit on 11th September, which I found very helpful; neither Respondent attended nor was represented.
3. I have found that the Applicant has made out her case in adverse possession and have directed the registrar to respond to her application as if neither Respondent had objected to it.
4. In the paragraphs that follow I describe the land involved in this dispute; I explain the procedural background to this matter; I then give my reasons for not adjourning the hearing on 12 September 2017 in response to the Second Respondent's application; finally I set out the reasons for my direction to the registrar.

**The land in Wembley**

5. 14 The Paddocks is registered at HM Land Registry under title number NGL665108; the Applicant bought it in 2003 and is the registered proprietor.
6. Number 14 is on a corner plot; it fronts The Paddocks, which runs north-south, and the long south side of the garden fronts Greenhill Way. The disputed land is, as I said above, roughly the back half of the back garden.
7. The disputed land was sold to the Second Respondent in 1989 by the then owner of number 14; it was registered under title number NGL665108. It appears from the register of title for both properties that the transfer was dated 7 December 1989, but there is reference also to a transfer dated 12 May 1989; whatever the date of the transfer the Second Respondent was registered as proprietor on 4 June 1990. Easements were granted and reserved for the benefit of the sold and the retained land, and the Second Respondent covenanted to fence it and to maintain the fence between his land and the remaining garden of number 14.
8. The Applicant's case is that the disputed land was never fenced off and remained part of the garden of number 14. One of her predecessors in title installed a swimming pool which she and her tenants used until it was filled in a few years ago. Her case is that the Second Respondent did not – until 2015 – take possession of the land he had bought and that the seller remained in possession, acquiring title by adverse

possession twelve years later. She says that when she bought number 14 she believed the disputed land was part of her own garden, as there was nothing on the ground to indicate that it was registered under a separate title.

9. The Second Respondent has said, in a witness statement dated 29 October 2015 (prepared for the county court proceedings, discussed below) that after he bought the disputed land he obtained planning permission to build on it, but that the downturn in the property market mean that he never built. He said in that statement that he fenced the disputed land in 2008 and again in 2015; he suggested at the hearing on 12 September 2017 that he fenced it in 2000.
10. At the site visit on 11 September the Applicant took me round the side of her house into the back garden. The garden is enclosed by mature fences on the north and south sides. The disputed land is fenced off with a much newer fence, and it is not in dispute that the Second Respondent entered the disputed land from Greenhill Way in October 2015 and put that fence up. The fence between Greenhill Way and the disputed land remains broken to ground level.

**The procedural background**

11. The Applicant made her application for registration as proprietor of the disputed land on 17 September 2015. I will discuss later (paragraphs 44 to 50) the legal consequences of the form of that application.
12. In response to that application the First and Second Respondents each made an objection to HM Land Registry, and I discuss below (paragraphs 51 to 55) the legal issues that arise about the validity of those objections.
13. The reason for the involvement of the First Respondent is that she is the Second Respondent's trustee in bankruptcy. He was made bankrupt in 2009, and was discharged some time ago. However, as the First Respondent has explained in her Statement of Case, because the Second Respondent had not disclosed to her the existence of the disputed land it did not re-vest in him when he was discharged from bankruptcy. Accordingly the First Respondent's case throughout these proceedings has been that she is been beneficially entitled to the Second Respondent's interest in the disputed land, that beneficial entitlement being held on trust for the Second Respondent's creditors.
14. The substance of the Second Respondent's objection was to deny that the Applicant had been in adverse possession. He said that "at all material times" there had been a fence dividing the disputed land from the rest of the garden of number 14; that it had

been removed "at some stage", and that "for the avoidance of doubt" he put up a new fence in 2008 in response to the Applicant's application for planning permission. He went on to say that he discovered in 2015 that that fence had been taken down, in the course of discussion that he was having with a neighbour about a possible purchase of further land.

15. The dispute was referred to the First-tier Tribunal on 15 April 2016.
16. Reverting now to the events of 2015, in September 2015 the Second Respondent entered the disputed land, as I mentioned above, and put up a fence, which the Applicant removed. On 9 October 2015 the Second Respondent entered the disputed land again and put up another fence and installed a caravan on the land; the Applicant commenced an action in the county court seeking an injunction requiring him to remove the fence. On 29 October 2015 HHJ Bailey at the Central London County Court accepted undertakings from the Applicant and the Second Respondent, whose terms included the removal of the Second Respondent's caravan, and stayed the county court action until the Applicant's application to HM Land Registry was determined.
17. In December 2015 the disputed land was entered again by a security firm employed by the Second Respondent and a caravan placed on it; the Applicant applied in January 2016 for a warrant of committal. Her application was eventually heard on 14 October 2016 and was dismissed; but her county court claim for a declaration as to the ownership of the disputed land, and for damages, remains stayed pending these tribunal proceedings. The undertakings given on 29 October 2015 remain in effect.
18. The Applicant's solicitors sent her Statement of Case to the Tribunal on 27 September 2016; some amendments to pagination were required by the Tribunal, and on 7 October 2016 the solicitors who were then acting for her wrote to the Tribunal to confirm that it had been served on the solicitors acting for the Second Respondent.
19. On 5 October 2016 the First Respondent served her Statement of Case, in which she explained why the land remained vested in her (see paragraph 13 above), and pointed out that of course she was unable to refute any of the factual points made by the Applicant.
20. No Statement of Case was produced by the Second Respondent. I directed that the matter be listed for a Case Management Conference, which took place on 13 March 2017 in Alfred Place. The Second Respondent was legally represented and his son, Jean-Pierre Popat, was also present. At that hearing it was observed that he was about

to apply for his bankruptcy to be annulled; annulment would have the effect that his interest in the disputed land, if any, would re-vest in him. I gave directions as follows:

1. On 20 April 2017 the two Respondents are to inform the Tribunal and the Applicant of the outcome of the Second Respondent's application for the annulment of his bankruptcy.
2. Within seven days of today (by close of business on 20 March 2017) the Applicant's solicitors are to serve her Statement of Case, together with exhibits, upon the Second Respondent's solicitors, by post and by email to [email address].
3. The Second Respondent is to serve his Statement of Case within 28 days of receipt of the Applicant's Statement of Case.
4. Within 14 days of today all parties are to notify the Tribunal of their dates to avoid in July, August and September for a three-day hearing preceded by a site visit.
5. All parties are to disclose to each other any documents not yet disclosed upon which they wish to reply, and to exchange witness statements, by close of business on the last day of May 2017."

Observations

1. It was agreed at the Case Management Conference that if the First Respondent seeks leave to withdraw after 20 April 2017, neither of the other parties will object to her being given leave to withdraw with no order for costs.
2. It was noted by the Tribunal and all parties at the Case Management Conference that the Applicant puts her case for adverse possession on the basis both of the old law/transitional provisions and of the post-2002 law.

21. In the event the annulment application was adjourned.
22. The direction at paragraph 2 was made because the Second Respondent's solicitor claimed not to have received a complete copy of the Applicant's Statement of Case. The Applicant is no longer represented by solicitors, but at the hearing on 12 September 2017 I was shown copies of emails sent by her solicitors complying with the direction, and I find as a fact that they did so.

23. On 25 May 2017, the Applicant – now unrepresented - posted an "updated witness statement" with a number of exhibits, including letters and witness statements from neighbours and others, to the First Respondent and to the solicitors then acting for the Second Respondent. The certificates of posting were sent to the Tribunal and again, I find as a fact that my direction 5 was complied with by the Applicant.
24. The Second Respondent has done nothing in compliance with the directions of 13 March 2017. He emailed the Tribunal on 11 September 2017 to say that he had not received the Applicant's Statement of Case, and at the hearing on 12 September claimed not to have seen the Applicant's Statement of Case or her updated witness statement; but I have found that they were correctly served on his solicitors and I proceed on the basis that he has received those documents.
25. On 10 July 2017 the Tribunal received a Notice of Acting in Person from the Second Respondent's solicitors. He has been a litigant in person from that point, but not before.
26. In accordance with the directions that I gave on 13 March, this matter was listed for a three day hearing from 12 September 2017, with a site visit on 11th. The hearing looked likely to be a long one because of the number of witnesses the Applicant intended to call.

**The reasons why the hearing on 12 September 2017 was not adjourned**

27. On 5 September 2017 the Second Respondent sent to the Tribunal an email application for the adjournment of the site visit and hearing listed for 11 and 12 September, which read as follows:

> "I am requesting an adjournment for the hearing scheduled to take place from 12 0 14 September 2017.
> These proceedings were to commence once my application for an annulment had been concluded. However, my application for annulment has been adjourned and is scheduled to be heard on 14 September 2017 as per attached court order
> It is for this reason that I would seek an adjournment. It would be beneficial to all parties concerned if my application for annulment was concluded prior to the adverse possession proceedings as my bankruptcy plays a huge role in this matter."

28. That application was refused; I took the view that the evidence he would be giving would be the same whether or not his bankruptcy was annulled on 14 September 2017. It was made clear to the Second Respondent – through his solicitors and his son who attended – at the Case Management Conference in March 2017 that the bankruptcy proceedings were irrelevant to the Applicant's application, although it was noted that the First Respondent would be withdrawing from the proceedings if the bankruptcy was annulled.
29. Neither the First nor the Second Respondent attended or were represented at the site visit on 11 September 2017. At the hearing the following day the Second Respondent appeared in person with his son. Miss Prime appeared for the First Respondent; she explained that the First Respondent was not going to oppose the application for annulment of the bankruptcy on 14 September. It was clear therefore that the First Respondent would have no further part to play in the proceedings save as to costs, and accordingly with my leave and the agreement of the Applicant and the Second Respondent Miss Prime left the hearing.
30. The Second Respondent renewed his application for an adjournment, this time on the basis, first, that he had not seen the Applicant's Statement of Case and did not know the case against him and, second, on the basis that he had found out about the hearing from the First Respondent only two weeks previously and therefore had not had time to instruct a legal representative as he wished to do.
31. As to the first reason, that he did not know the case against him, I have found that the Applicant's Statement of Case and supplemental witness statement were properly served on his solicitors. If for whatever reason the Second Respondent's solicitors did not pass those documents on to him, he was aware of the directions given on 13 March (because his son was present) and would – or should - have chased his solicitors to find out what was happening. Moreover, he has taken a full part in the county court proceedings and is well aware of the Applicant's case, since she put forward extensive evidence (her own and from her neighbours) in that action. I understand from what he said at the hearing that he took the view that the tribunal proceedings were supposed to be put on hold until his annulment application had been completed; but his representatives and his son attended the directions hearing on 13 March 2017 and I believe therefore that he was well aware that that was not the case.
32. I turn to the Second Respondent's other reason for seeking an adjournment, namely that he had only just found out about the hearing. He said that he had heard about it by

chance from the First Respondent a fortnight previously. In the course of the morning of 12 September it became clear that there was no evidence on the Tribunal's file that the Second Respondent's solicitors were given notice of the hearing, as they should have been, in April 2017. The Tribunal's file contains copies of the notice sent to the Applicant and the First Respondent; either the need to send a separate notice to the Second Respondent's solicitors was overlooked by the Tribunal staff, or they failed to place a copy of the notice on the file. For the benefit of the Second Respondent I assume the former.

33. In the light of that procedural irregularity I gave anxious thought to whether I should adjourn the hearing. I concluded that I should not, for the following reasons, which I gave at the hearing and now set out in full.

34. The Second Respondent did, on his own account, learn of the hearing a fortnight beforehand. He therefore had time to instruct a legal representative. If he was at a disadvantage in the hearing it was through his own choice not to engage with the directions given in March, not to produce a Statement of Case, and not to serve evidence. Mr Walder confirmed, for the Applicant, that he was willing to treat the Second Respondent's objection to the Applicant's application for registration, which I summarised at paragraph 14 above, as his evidence to the Tribunal, so that his side of the story would be presented and he could be cross-examined.

35. Moreover, the Second Respondent has chosen not to comply with the directions of 13 March 2017 and in the absence of any reasonable explanation for that there is no reason to give him further opportunity to do so. An adjournment would be pointless unless I were also to amend those directions and give him further time to serve a Statement of Case and to produce witness statements from others; there is no reason for me to do that.

36. I gave the Second Respondent and his son time on 12 September to consider what further evidence he would wish to call if he were given leave to do so; he mentioned the names of three witnesses and said that they would be able to give evidence about fences being put up in 2008 and 2015 and in 2000. I asked why he had not, in these proceedings or in evidence to the county court, made any mention of a fence put up in 2000; he said that he had not thought it necessary to mention it. I reject that reason; I regard the suggestion that there might be a witness to fencing in 2000 as an invention, made at the last minute in order to endeavour to persuade me to adjourn.

37. Accordingly I saw no value in the reasons for adjournment put forward by the Second Respondent, and no reason to allow him to adduce further evidence if the adjournment were granted.
38. On the other hand to adjourn the hearing would have been very unfair to the applicant, who has complied with all the directions addressed to her.
39. For those reasons I decided not to adjourn the hearing of 12 September 2017. The Second Respondent attended without any documentation; I directed that before each witness was called for the Applicant he should have time to re-read the relevant statement so that he could consider the extent to which he wanted to challenge the evidence.
40. The Second Respondent's son, Jean-Pierre Popat, who was also present, asked permission to conduct cross-examination for his father; Mr Walder made no objection to that; I explained the purpose of cross examination to the Second Respondent and Jean-Pierre. After further discussion between themselves the Second Respondent said that he would not be cross-examining the witnesses, although he did not accept the truth of their evidence. He made it clear that he would be appealing my decision not to adjourn and did not wish to participate in the hearing.
41. At that point the hearing came to an end, since there was no purpose in any witness attending for the Applicant, and the Applicant's arguments have been set out in Mr Walder's skeleton argument.
42. As I said above, I have directed the registrar to give effect to the Applicant's application as if the objections of the First and Second Respondents had not been made.

**The reasons for my decision**

43. The Applicant made her application in Form ADV1.
44. As is well known, the law relating to adverse possession changed in November 2003 when the LRA 2002 came into force. Prior to that date registered land was subject to the operation of the limitation acts just as is unregistered land; the effect of taking adverse possession of registered land for 12 years was that the registered proprietor held it on trust for the adverse possessor, who was entitled to be registered as proprietor on his or her application (section 75 LRA 1925).
45. The LRA 2002 changed the law. In summary, the position is that the limitation acts no longer apply to registered land (section 96(1)); instead, someone who has been in adverse possession for ten years can apply for registration, on form ADV1, but will

not be registered as proprietor of the land unless *either* the registered proprietor does not object to the registration *or* one of three conditions applies (schedule 6 to the LRA 2002, paragraphs 3, 4 and 5).

46. However, the LRA 2002 also makes transitional provisions. Paragraph 18 of Schedule 12 to the LRA 2002 provides that where a person has, before the LRA 2002 came into force, acquired the right to be registered as proprietor of registered land by virtue of adverse possession, so that the land is held on trust pursuant to section 75 of the Land Registration Act 1925, he or she remains entitled to be registered as proprietor of the land.
47. The Applicant's case is that her predecessors in title acquired the right to be registered as proprietors of the disputed land, and did so before 2003. Whatever the date of the transfer to the Second Respondent (see paragraph 7 above), twelve years was completed by 4 June 2002 at the very latest. Accordingly she should have applied under the transitional provisions on the basis that the Second Respondent held the disputed land upon trust for her predecessor in title from 4 June 2002 at the latest, and continues (by virtue of the transitional provisions the LRA 2002) so to hold it for her since she took over possession of the disputed land in 2003.
48. Instead she applied on form ADV1 as if to make a case for registration under Schedule 6 to the LRA 2002.
49. Accordingly I have to decide whether she is entitled to registration pursuant to the provisions of Schedule 6.
50. As I said above she is so entitled if *either* no objection is made, *or* she can make out a case under one of the three conditions set out in paragraph 5 of Schedule 6. I find that she is so entitled on both those grounds; first, no legally valid objection has been made to the application and, second, the Applicant has proved her entitlement to be registered because she falls within the second condition (paragraph 5(3). I address these two ground in turn.

    *The validity of the objections to the application*
51. First, no valid objection has been made.
52. Paragraph 3 of Schedule 6 to the LRA 2002 provides that an objection can be made by any person to whom notice of the application must be given under paragraph 2 of Schedule 6. Those persons are:

    (a) the proprietor of the estate to which the application relates,

(b) the proprietor of any registered charge on the estate,

(c) where the estate is leasehold, the proprietor of any superior registered estate,

(d) any person who is registered in accordance with rules as a person to be notified under this paragraph, and

(e) such other persons as rules may provide.

53. The First Respondent was given notice of the application, but was not in fact entitled to be given notice. She is not the registered proprietor of the disputed land and is not entitled on the basis of any other item in the above list. Accordingly she could not make any valid objection.
54. The Second Respondent as the registered proprietor of the disputed land was entitled to receive notice of the application and to object to it. He did so, but was required (by rule 189 of the Land Registration Rules 2003) to do so by 12 noon on the 65th business day after notice was sent to him. His objection, according to Land Registry's case summary, arrived at 12:01 on that date . There is no provision in rules for discretion to allow a late objection; accordingly his objection was not valid.
55. That disposes of both objections. But, at least so far as the Second Respondent is concerned, it is a technical disposal and it is important that I make clear that even if there had been a valid objection the Applicant is entitled to be registered as proprietor because she is able to bring herself within one of the three conditions set out in paragraph 5 of Schedule 6 to the Land Registration Act 2002.

*The Applicant's entitlement to be registered under the condition in paragraph* 5(3).

56. The first and third conditions in paragraph 5 are not relevant. The second, in paragraph 5(3), is:

> "The the applicant is for some other reason entitled to be registered as the proprietor of the estate"

57. It is well established that if an applicant who can show an entitlement to registration under the transitional provisions – because 12 years' adverse possession had been completed prior to November 2003 – then that is "some other reason" for entitlement. The Applicant has shown that entitlement on the basis of the evidence she has adduced.

58. The Applicant has made a witness statement and has also produced statements and letters from a number of neighbours. Five of those neighbours were ready to attend the hearing on 12 September, but were not asked to do so because the Second Respondent chose not to cross-examine. I reach my conclusion as to the Applicant's entitlement to be registered as proprietor on the basis only of her own evidence and that of the neighbours who were going to attend the hearing, leaving to one side the letters and statements from others.
59. The Applicant's own evidence, set out in her Statement of Case and in her "updated witness statement" of 25 May 2017, is that when she moved into the house in 2003 the garden was undivided. She was not aware that the disputed land was not hers (I take it, therefore, that she had not seen the Land Registry plan); it was not fenced. There was at that stage a swimming pool on the disputed land, served by an electricity and water supply from number 14; it has been filled in since but it remained there for some years. She applied in 2007 and again in 2010 for planning permission to build a play room on the disputed land, and permission was refused, but no-one at that stage suggested to her that she did not own the land.
60. Her evidence is that no-one entered the land until September 2015, when the fence between the disputed land and Greenhill Way was broken down and a fence put up, separating the disputed land from the rest of the garden of number 14, while she was abroad. When she found the fence on her return she took it down. On 9 October 2015 the disputed land was again accessed from the gap in the fence in Greenhill Way (made in September); a JCB was brought onto the land – the Applicant has produced photographs of it – and a caravan was installed. Hence the county court action as I have explained above.
61. The Applicant has produced a letter dated 18 January 2016 from Adeyinka Oyesfuso, Director of Queens Park Real Estate, confirming that that company let the property for the Applicant on a number of occasions since 2003, and that a photograph taken by her, annexed to the Applicant's updated witness statement, was taken in 2013. It shows the entire garden with no fence cutting off the disputed land. Mrs Oyefuso was ready to attend the hearing on 12 September 2017 to give this evidence and to be cross-examined.
62. In a letter dated 3 November 2015 Mrs Sumathy Srirangathasan said that she lived at number 14 from 2006 to 2007 (I take it that she was a tenant). She says:

"During those 2 years, my young child and I spent lots of time outdoors, and I have fond memories of our time by the swimming pool and under the beautiful trees at the back of the garden. I can confirm, having sent all that time there, that there ever was a fence or any sort of partition at any place in the garden."

63. Ms Srirangathasan was ready to attend to give evidence and to be cross-examined at the hearing. So was Mr Suganthan Packiyanathan, whose letter dated 7 November 2015 and headed "For land registry or Court Use" said:

> "Since 2004, and up until only a couple of years ago, I have been regularly visiting Mrs Perinpanathan's property at 14 The Paddocks. I own tools and would go there to help maintain the garden and trees.
>
> My experience is that it was a beautiful and well-kept garden. At no point during all these years did I see any partition within it, nor did anyone interfere with my gardening activities."

64. Some of the Applicant's neighbours are able to give a much longer view.

65. Mr Joseph Morrison lives at 6 Greenhill Way and his property is directly adjacent to and overlooks the disputed land (as I saw at the site visit); he attended the hearing on 12 September and was ready to give evidence. His witness statement, dated 16 February 2017, says that he has lived at 6 Greenhill Way since well before 1990 and has a good view of the disputed land. He always kept an eye on it because of the tendency of the large trees on it to grow over his land and because of the insects attracted by the swimming pool; he says he had occasion to ask the Applicant to clean the pool for that reason, and that although she maintained it for years she eventually filled it in. He says:

> "... at no point was a partition of any kind set up anywhere in the garden, nor did anyone enter the property. Furthermore, until September 2015, there was nothing unusual or any interference in the garden.
>
> I would add that the previous owners also maintained the land and used the swimming pool and garden shed ever since they moved in."

66. Mr Irwin Van Colle of 1 Greenhill Way says in a witness statement that he lives at 1 Greenhill Way, diagonally opposite the rear boundary of number 14 and the disputed land. He says that the fence around the back garden of number 14 was undisturbed

from 1977 until September 2015. There was no division between the disputed land and the rest of the garden. The large weeping willow on the disputed land which was periodically trimmed by the owners of number 14. He objected to the Second Respondents application for planning permission in 1990, but was unaware that the disputed land was a separate parcel.

67. Mr Van Colle was ready to attend the hearing on 12 September 2017 and to be cross-examined.

68. The Applicant's witnesses speak with one voice; the Second Respondent never took possession of the disputed land after his purchase in 1989. The seller remained in possession, and the possession was uninterrupted until 2015.

69. This evidence was technically unchallenged at the hearing on 12 September 2017, in that the Second Respondent chose not to require the witnesses to attend for cross-examination. He made it clear that he did not accept the evidence; but the evidence is coherent and consistent and I accept it in its entirety. The Second Respondent has chosen not to give any evidence in these proceedings. In his objection to the Applicant's application, addressed to HM Land Registry, he said that he had put up a fence in 2008. In the light of the evidence given by the Applicant and her witnesses I find that that is not true. Even if true it would be legally irrelevant because by that date the Applicant was entitled to be registered as proprietor of the disputed land. If it is the Second Respondent's case that the disputed land was fenced at any point before 2008 I find that that is not true.

70. I conclude that the owners of number 14 had acquired title by adverse possession in by 4 June 2002 at the latest. From that point on the Second Respondent held on trust for them. They passed their possessory title and beneficial interest on to the Applicant and the Second Respondent continues to hold his registered legal estate on trust for her. The disturbance in 2015 makes no difference. Accordingly she in entitled to be registered as proprietor pursuant to paragraph 5(3) of Schedule 6 to the LRA 2002. Even if the First or Second Respondent had made a valid objection to the application, that would be the Applicant's entitlement.

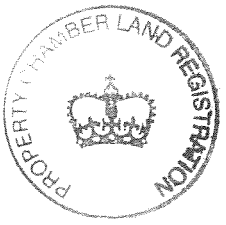
**Costs**

71. In this tribunal costs follow the event and in principle the Applicant is entitled to have her costs paid by the Respondents. If the Applicant wishes to apply for her costs incurred since the date of the reference from HM Land Registry she is to let the Tribunal and the Respondents have a schedule of her costs within 28 days of the date

of this order. The Respondents will then have a further 28 days to make any representations about liability or about the amount claimed, and the Applicant will have a further 21 days thereafter to respond.

Dated this 27 September 2017

BY ORDER OF THE TRIBUNAL




Elizabeth Cooke

Elizabeth Crowe