

A WAKE-UP CALL TO PROPERTY OWNERS WHO ALLOW OTHERS TO OCCUPY LAND THEY OWN AS IF IT WERE THE SQUATTERS' OWN LAND

The European Court of Human Rights has handed down a judgment which accepts that the UK's law of 'adverse possession' is not a breach of the property owner's human rights.

Under UK law, anyone who is allowed unopposed occupation of a piece of land for more than the statutory period can acquire the legal right to the land. This is called adverse possession. Numerous safeguards for property owners were introduced by the Land Registration Act 2002, which introduced a system of notices before the title could be transferred.

An earlier decision of the Court had indicated that to pass the legal title to land by the exercise of 'squatters' rights' would breach the human rights of the original owner as the title would pass without any compensation being paid. This decision was, unsurprisingly, contested in a case in which the land concerned, which had planning permission, was estimated to be worth £10m.

The judgment will serve as a wake-up call to property owners who allow others to occupy land they own as if it were the squatters' own land.

The system now in place, which involves giving notices to owners of land when an application to transfer the title is made, should reduce the frequency with which ownership by adverse possession is claimed. The new system also makes it relatively easy to prevent the registration of title to the land by squatters. However, there is still much unregistered land in the UK and it is often difficult to ascertain the ownership of that land in order to give the required notices. Furthermore, an owner who is unable to deal with notices served, by way of infirmity or because they are absent from their home, could face particular problems if steps are not taken to oppose the registration of title. Once an application for registration has been refused, if the squatter remains in occupation for a further two years and submits a further application, this will be accepted by the Land Registry.

If you have property occupied by someone else which is not the subject of a lease or licence arrangement involving a payment, take advice to make sure you are not inadvertently exposing yourself to avoidable risk. **PLEASE CONTACT H&LF Residential Property Partner, Bon Battu**