

Gypsies – No Right to Occupy Land

The House of Lords has ruled on a benchmark case involving a family of travellers who sought to have their eviction from public land quashed on the grounds that it was a breach of their right to respect for the home as guaranteed under Article 8 of the European Convention on Human Rights.

The land near Wakefield on which the Maloney family encamped was a recreation ground and not a site set aside for travellers. Other travellers had encamped on the site, but had moved on when possession proceedings were issued against them and 'persons unknown'. The Maloneys had been on the site for only two days when the proceedings were issued, but they were the only family to remain in occupation and the only people to appear in court to contest the proceedings. They later went to live on an authorised site for gypsies, but continued to contest their eviction, arguing that the site was their home.

The family argued that Leeds City Council was in clear breach of its obligation to provide sufficient sites for travellers, as its sites were full, they all had waiting lists and twenty per cent of the travellers in that area were forced to stay on unauthorised sites. The Council had declined to authorise further sites. The Maloneys argued that the Council did not have a homelessness policy which dealt with travellers and did not have a race relations strategy which took account of the needs of the gypsy/traveller community. They also argued that they were a special case, since they had been evicted fifty times in the past year, and had as a family a variety of significant health problems.

The Law Lords were unanimous in rejecting the claim and backed the right of landowners to obtain possession of their land if it is occupied without their authority. Lord Bingham said that it was 'all but unarguable that the recreation ground...was ever their home'.

In the view of the Lords, in only the rarest case could someone who never had the right to occupy land in the first place be successful with such an argument, provided the landowner acts promptly to evict them. The most sensible thing for any landowner who finds their land occupied by people without legal authority is to commence proceedings for possession as soon as practicable.