

THE HIGH COURT

GERARD & MARTHA STACK

PLAINTIFFS

AND

STEPHEN SIMPSON

DEFENDANT

EX TEMPORE JUDGMENT of Mr. Justice Colm Mac Eochaidh delivered on the 11th day of January, 2017.

1. This is an action taken by the plaintiff against the defendant. It is effectively a trespass action. It is an appeal from a decision of the Circuit Court. The claim made by the plaintiff is that the defendant is trespassing on his land. And that is answered by Mr. Simpson, he says that he is not trespassing, that he in fact is the owner of the land because he purchased it from a Mr. Dillon, allegedly on the 18th March, 1998.

2. It is a strange case because Mr. Simpson does not deny that the plaintiff has purchased the land and that he is properly the legal owner of it. What he says instead is that he is the owner and if he is the owner it was a matter for him to pursue his claim through the appropriate means. Now in relation to that, the solicitor who acted for Mr. Simpson in this case (and she subsequently came off record) gave evidence to the court and she says that when Mr. Simpson came to her first, he mentioned absolutely nothing about having purchased the land from Mr. Dillon. He did not produce the receipt, a copy of which has been shown to this court, and instead he wanted her only to investigate who was the registered owner of the land. She said that in relation to that, she made the appropriate inquiries; she also said that the facts presented to her were ones which allowed her to advise him that he possibly had a claim in adverse possession; that he had been adversely in possession of the land for 12 years. That to me is the most important evidence in this case because a solicitor would never advise a person that they were in adverse possession unless that possession was genuinely adverse to the owner. And that is what she set about to establish.

3. I have no doubt whatsoever that Mr. Stack is the lawful owner of this land. I have no doubt that Mr. Simpson never told Ms. McMahon, his solicitor, that he had a receipt for the purchase of the land. I have no doubt that Mr. Simpson never told Ms. McMahon that he had purchased the land. I don't know why he didn't tell her that but he most certainly did not tell her that. It is possible that Mr. Simpson gave money to the late Mr. Dillon in respect of the lands; that I don't know. But what is surprising is that if Mr. Simpson thought he was purchasing the land, that he did nothing about securing his title to that land for many years. And that suggests to me that in fact his version of events in this case is untruthful. And that he never purchased the lands as claimed.

4. But I don't have to resolve that in this case. I do believe that I have been lied to. But I don't have to formally decide that. It is enough for me to decide that Mr. Stack is the owner of the land, that Mr. Simpson is trespassing on the land and that I am going to make orders in relation to that.

5. And the orders that I make are that Mr. Simpson must cease any act of trespass whatsoever in respect of the lands in question and must not in any way touch, approach, or encroach upon the land ever again. And I warn him that if he does, that there are enforcement proceedings which are available to Mr. Stack against him which could be unpleasant for him. And that he must not use the land in any way and he must keep away from it.

6. I therefore hold for the plaintiff in this appeal. I reject the entirety of the defence advanced by Mr. Simpson and I take the opportunity to deprecate the manner in which Mr. Simpson has attempted to attack witnesses, to make false allegations against professional people and to use this court as a bit of a circus in pursuit of a right which he does not have and I don't believe ever had. I therefore make the orders that I have indicated.