



## Press Summary

29 November 2023

### **Wolverhampton City Council and others (Respondents) v London Gypsies and Travellers and others (Appellants)**

**[2023] UKSC 47**

*On appeal from [2022] EWCA Civ 13*

**Justices:** Lord Reed (President), Lord Hodge (Deputy President), Lord Lloyd-Jones, Lord Briggs, Lord Kitchin

#### **Background to the Appeal**

This appeal concerns injunctions obtained by local authorities to prevent unauthorised encampments by Gypsies and Travellers. An injunction is a court order that requires the persons to whom it is addressed to do, or refrain from doing, a specified act. In this appeal, the Supreme Court is asked to decide whether the court has the power to grant injunctions against persons who are unknown and unidentified at the date of the grant of the injunction, and who have not yet performed, or even threatened to perform, the acts which the injunction prohibits. These persons are known as “**newcomers**” and the injunctions made against them as “**newcomer injunctions**”.

Between 2015 and 2020, 38 different local authorities, or groups of local authorities, obtained injunctions designed to prevent Gypsies and Travellers from camping on local authority land without permission. The local authorities relied on a range of statutory provisions, including section 187B of the Town and Country Planning Act 1990 which enables the court to grant an injunction to restrain an actual or anticipated breach of planning control. Some of the local authorities also relied on common law causes of action, such as trespass.

The injunctions were addressed to “persons unknown” because the Gypsies and Travellers who might wish to camp on a particular site could not generally be identified in advance. At the time the injunctions were granted, these unknown persons, or newcomers, had not yet committed, or threatened to commit, any breach of planning control, trespass or other relevant unlawful activity. The local authorities obtained the injunctions without notifying any other party, at hearings where the interests of Gypsies and Travellers were not represented. Once obtained, copies of the injunctions were displayed in prominent locations on each of the relevant sites.

From around mid-2020, the local authorities made applications to extend or vary injunctions which were coming to an end. After a hearing in one of these cases, the High Court judge

decided that there was a need to review all newcomer injunctions affecting Gypsies and Travellers. He gave the appellants – (i) London Gypsies and Travellers, (ii) Friends, Families and Travellers, and (iii) Derbyshire Gypsy Liaison Group – permission to intervene so that the interests of Gypsies and Travellers could be represented. Following the review hearing, the judge concluded that the court did not have the power to grant newcomer injunctions, except on a short-term, interim basis. He therefore made a series of orders discharging the newcomer injunctions obtained by the local authorities.

The Court of Appeal held that the court had the power to grant newcomer injunctions, and allowed the local authorities' appeal. The appellants now appeal to the Supreme Court.

## **Judgment**

The Supreme Court unanimously dismisses the appellants' appeal. It holds that the court has power to grant newcomer injunctions. However, it should only exercise this power in circumstances where there is a compelling need to protect civil rights or to enforce public law that is not adequately met by any other available remedies. In addition, newcomer injunctions should only be made subject to procedural safeguards designed to protect newcomers' rights. Lord Reed, Lord Briggs and Lord Kitchin give a joint judgment, with which the other members of the Court agree.

## **Reasons for the Judgment**

Newcomer injunctions are a wholly new form of injunction, which are granted without prior notice against persons who cannot be known at the time the order is made. They therefore potentially apply to anyone in the world [142]-[144].

In the context of Gypsies and Travellers, newcomer injunctions are generally made in cases where the affected Gypsies and Travellers are unlikely to have any right or liberty to set up unauthorised encampments on the relevant local authority land. The injunctions therefore seek to enforce the local authorities' legal rights in proceedings where there is no real dispute to be resolved. Experience has shown that the usual processes of eviction, or even injunction, against named Gypsies and Travellers are inadequate because, by the time the local authority has commenced proceedings, the original group will often have left and been replaced by others, against whom the proceedings are of no effect. Local authorities therefore seek newcomer injunctions because they provide an effective means of vindicating their legal rights. Even when they are interim in form, newcomer injunctions operate in substance against newcomers on a medium to long-term basis, rather than as an emergency short-term measure to protect local authorities' rights pending a later trial process [139], [142]-[144].

The court has jurisdiction, or power, to grant newcomer injunctions because its power to grant injunctions is unlimited, subject to any relevant statutory restrictions. The power is equitable in origin, and has been confirmed and restated by Parliament in section 37(1) of the Senior Courts Act 1981 [16]-[18], [145]-[146]. The court's power to grant injunctions is not limited to pre-existing, established categories. Injunctions may be granted in new circumstances as and when required by the principles of justice and equity which underpin them. This is demonstrated by the courts' development of several new kinds of injunction over the last 50 years, including freezing injunctions, search orders, third party disclosure orders, internet blocking orders, and anti-suit injunctions [19]-[22], [147]-[148].

The question for the Supreme Court is, therefore, whether the court should, as a matter of principle and practice, grant newcomer injunctions and, if so, on what basis and subject to what safeguards. The Court answers this question by reference to equitable principles, which derive from the important role of equity in putting right defects or inadequacies in the common law. First, where there is a right, there should be a remedy to fit that right. Secondly,

equity looks to the substance rather than the form. Thirdly, equity operates flexibly and responds to changes in circumstances over time. Fourthly, subject to the requirements of justice and convenience, equity is not constrained by any limiting rule in fashioning a remedy to suit new circumstances [149]-[153], [238 (iii)].

The Court considers, and rejects, a number of objections to the grant of newcomer injunctions [23]-[56], [154]-[166], [168]-[185]. It concludes that there is no reason why newcomer injunctions should never be granted, in principle. Newcomer injunctions are a valuable and proportionate remedy in appropriate cases. However, this does not mean that it will be appropriate for the court to grant a newcomer injunction in every case. In deciding whether it should grant a newcomer injunction, the court should have regard to the equitable principles described above, which require that newcomer injunctions should only be granted in certain circumstances, and subject to certain safeguards [167], [186], [237]-[238].

The applicable principles and safeguards will evolve over time in the light of the experience of the courts where applications for newcomer injunctions are made [187]. However, newcomer injunctions to prohibit unauthorised encampments by Gypsies and Travellers are only likely to be justified if, first, the applicant local authority has demonstrated that, on the available evidence, there is a compelling need to protect civil rights or enforce public law that is not adequately met by any other remedies [167(i)], [188]-[220], [238(iv)(a)]. Secondly, because newcomer injunctions are made without notifying the affected newcomers, procedural safeguards must be built into both the application and the court order. The application for the injunction should be advertised widely so that those likely to be affected by it (or bodies representing their interests like the appellants) are given a fair opportunity to make representations before the injunction is made. Once the injunction has been granted, it must be displayed in a prominent location at the affected site. Newcomers who become aware of it should have notified clearly to them the right to apply to court to have it varied or set aside, without having to show that circumstances have changed [167(ii)], [226]-[232], [238(iv)(b)]. Thirdly, because the interests of Gypsies and Travellers are not typically represented at the hearings where newcomer injunctions are granted, the applicant local authorities will be obliged to comply with a strict duty which requires them to disclose to the court (after due research) any matter which a newcomer might raise to oppose the making of the order [167(iii)], [219], [238(iv)(c)]. Fourthly, newcomer injunctions should be limited so that they do not apply for a disproportionately long time period or to a disproportionately wide geographical area [167(iv)], [225], [238(iv)(b)]. Finally, the court must be satisfied that it is, on the particular facts of the case, just and convenient that a newcomer injunction is granted [167(v)], [238(iv)(d)].

*References in square brackets are to paragraphs in the judgment.*

**NOTE:**

**This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)**