

Dorking gnome fails in bid to win property rights

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A Surrey couple have won a legal battle over a tiny strip of lawn outside their home after a neighbour tried to reclaim it by placing a garden gnome on the grass.

Expert gardener Elizabeth Dobson and her partner Andrew Pleming had spent years tending the eight-by-three foot patch outside their home on Pointers Hill in Westcott, near Dorking. They mowed it, raked it, planted herbs and wildflowers and even allowed their children to run across it as part of the garden, a tribunal heard. But the peaceful routine was disrupted when new neighbours Alison Unsted and Darren Unsted moved into the house next door in 2022 and decided the land actually belonged to them.

Nine months later the couple removed plants the gardeners had grown on the small patch and installed a garden gnome in their place, sparking a full-blown legal dispute over the tiny triangle of grass between the two properties. The disagreement eventually reached the Upper Tribunal in London and centred on the legal principle of adverse possession, sometimes referred to as “squatters’ rights”, which allows someone to claim land if they have used it as their own for a sufficient period of time.

Ms Dobson and Mr Pleming argued that they, and the previous owners before them, had treated the disputed patch as part of their garden for many years. They told the tribunal they had mowed and maintained the grass just like the rest of their lawn, scarified the soil, replaced topsoil and introduced herbs and wildflowers. Their children had played on it freely and the couple used the strip as a route to push a mower and wheelbarrow between different levels of their garden. At one point they even embedded a sign displaying their house number in the soil.

Several former tenants of the neighbouring property supported their claim, telling the tribunal they had always assumed the patch belonged to number 29 and had never maintained it themselves. The case was first heard by the First-tier Tribunal, which ruled the couple had only clearly taken possession of the land from around 2018 when they turned it into a flower bed, leaving them short of the ten years required.

However, the gardeners appealed the decision. This week Judge Elizabeth Cooke overturned the earlier ruling at the Upper Tribunal, which sits at the Royal Courts of Justice, concluding that the couple had demonstrated clear possession of the land for many years. “The full picture is that, since the appellants bought the property, they have mowed, raked and scarified the lawn, replaced topsoil and turf, let their children play on the grass, used it to take the mower and barrow to the lower terrace, put a sign on it, and introduced herbs into the grass,” the judge said.

Looking at the nature of the small open-plan lawn, she said there was little more an owner could realistically do to demonstrate control of the land. “People do not generally mow their neighbour’s grass without their agreement,” she added. “Nor do they let their children play on it. Nor do they replace topsoil on it or plant herbs in it. Taken together it seems to me perfectly obvious that the appellants were in possession of the disputed land.”

The judge concluded that the couple and their predecessors had been in possession of the strip since at least 2002, long before the Unsteds arrived and attempted to reclaim it with the garden gnome. She ordered that the couple’s application to register the land should now proceed as if the neighbour’s objection had never been made, bringing the dispute over a patch of grass barely larger than a door to an end.

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