

BENATAR v SMITH

Privy Council
11 June 1812

Land tenure — decision of Court of Inquiry confirmed by General Bland — whether establishes freehold.

It appears from a footnote to the report of *Jephson v Riera* (1835) 3 Knapp 130 that the case of *Benatar v Smith* concerned a claim by the heirs-at-law of Elijau Benatar, who had died intestate owing very large simple contract debts, to certain real property, as against a purchaser from the administrators of the estate. The case turned on whether or not the title was freehold. The heirs-at-law derived title from the decision of a Court of Inquiry held in 1749, a confirmation of that decision by General Bland and subsequent conveyances. It was held by the Judicial Committee that the land was freehold.

Note. Subsequent to this decision, by Order in Council dated 13 August 1817 (amended by Orders dated 19 March 1819 and 20 November 1826) the Governor was empowered to appoint commissioners for settling the titles to lands in Gibraltar. The 1817 Order also required the registration in the Court of Civil Judicature of all wills and deeds relating to land.