



COMMONS REGISTRATION ACT 1965

Reference No 203/U/145

In the Matter of a public pond at
Studley Green, Stokenchurch, Wycombe
District, Buckinghamshire

DECISION

This reference relates to the question of the ownership of land being a public pond at Studley Green, Stokenchurch, Wycombe District being the land comprised in the Land Section of Register Unit No CL 294 in the Register of Common Land maintained by the Buckinghamshire County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

When making this reference, the County Council as registration authority said that Cleveland Petroleum Co Ltd had claimed ownership. Following upon the public notice of this reference, Stokenchurch Parish Council (letter of 9 September 1977) said that the land was allotted as a public pond or watering place by the 1861 Inclosure Award and was easily located in the 1958 Award map; and Esso Petroleum Co Ltd said (their solicitors letter of 28 September 1977) that they as successors of Cleveland Petroleum Co Ltd under a lease dated 14 January 1958 and granted by Eagle Star Insurance Company Limited had an option which was being exercised to acquire the freehold interest. No other person claimed to be the freehold owner of the land in question or to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Aylesbury on 25 January 1979. At the hearing (1) Mr R A Parker-Brown and Mrs W A Parker-Brown were represented by Mr P M Ross articled clerk with Allan Janes and Co, Solicitors of High Wycombe; and (2) Stokenchurch Parish Council were represented by Mr R C Tetlow, solicitor practising as Marchant Tetlow Solicitors of Newport Pagnell.

The land ("the Unit Land") in this Register Unit is about 30 yds or less to the north of the A40 road. It is accessible on its east side across the land which is now being used as a Service Station (petrol pumps etc), and on its west side by a well made concrete track leading from the road to Studley Green Farm.

Mrs Parker-Brown in the course of her evidence said (in effect):- They (she and her husband) have been the owners of The Five Alls Garage since August 1978; before then they were tenants. The Garage Establishment (house, yard pumps etc) is north-east of and fronts on the A40 road. The Unit Land is a pond which adjoins (north-west of) the Garage Establishment. She had lived in the house for the last 21 years (they were married 19 years ago); when she first came the premises were a tea house (the OS map marked as "PH"), but after a short time they were a garage. The Unit Land is the main soak away of the drainage off the garage yard. They had ducks on the pond, and for her son a little sailing boat. On 5 occasions (the last in 1962) her husband had arranged for the cleaning of the pond (3 times by contractors and twice by themselves). When they purchased they were handed by their solicitors a copy (produced) of a deed dated 28 September 1956 and made between (1) Mrs Goodman



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and (2) Mr and Mrs Wood, paragraph 4 of which was Mr and Mrs Wood and their successors in title of The Five Alls Tea House shall be deemed to be the owner and fee simple of the Pond marked 527A on the said plan of the land coloured brown.

The Pond 527A and brown land on 1956 plan are respectively the same as the Unit Land and the strip between it and the A40 road.

Mr Tetlow produced copies of (1) the Stokenchurch Inclosure Award dated 31 August 1861 by which were set out and appointed five public ponds or watering places including one numbered 162 on the map on Studley Green; (2) the relevant part of the map referred to in the Award (plot No 162 is the same as the Unit Land); and (3) Wycombe Rural District Council (Studley Green Farm, Stokenchurch) Public Path Diversion Order 1972. Mr Tetlow explained that under the 1972 Order the public footpath which at one time crossed the Garage premises on the east side of the Unit Land, had been diverted so as to run along its west side, so in the result the pond is now (as it has always been since the Award) open to a public footpath.

Since the hearing, Messrs Allan Janes and Co have sent copies of (among other documents: (1) a conveyance dated 6 August 1955 by Mrs B Hillier to Mr B and Mrs R Wood of the "messuage and premises formerly a Public House known by the sign of The Five Alls", by reference to a plan drawn on a conveyance dated 24 July 1936 between Thomas Wethered & Sons Ltd and Mrs Hillier; (2) the said 1936 plan; (3) a conveyance dated 11 December 1956 by Mr and Mrs Wood to Cleveland Petroleum Company Limited ("Cleveland") of the said messuage and premises "now a dwellinghouse and cafe with the stable gardens and land thereto belonging" as delineated on the plan annexed; (4) a conveyance dated 30 December 1957 by Cleveland to Eagle Star Insurance Company Limited ("Eagle Star") of the said premises (by reference to the 1956 conveyance plan); (5) a lease dated 14 January 1958 by Eagle Star to Cleveland of the said premises ("then known as The Five Alls Service Station"); (6) an assignment dated 14 June 1978 by Cleveland to Esso Petroleum Company Limited "Esso" of such lease; and (7) a conveyance dated 10 August 1978 by Eagle Star and Esso to Mr and Mrs Parker-Brown of the said premises.

On 7 March 1979 I inspected the Unit Land and its surroundings.

The Unit Land is not now invitingly accessible to the public from the A40 road, although a pedestrian using the 1972 public footpath would have no difficulty in reaching the waters edge. With the coming of piped fresh water and the decline of the use of public ponds for domestic and agricultural purposes and for steam tractors and other roadside uses, it is I suppose unlikely that the public never want to use the Unit Land for anything other than as an amenity.

Mr Tetlow claimed (rightly I think) that the Unit Land under the 1861 Award was and still is a public pond, and accordingly my decision as to ownership cannot affect the rights the public may have under the Award. The Award said nothing about ownership, and it may be that at that time it was not considered that ownership of a pond over which public had rights could be of any value or of any practical importance to anyone. However this may be, I am required by the 1965 Act to determine the ownership subject to it being a public pond, and it may be that having become of little use to the public, this ownership may be of value and of importance.



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From the 1936 and 1957 conveyance plans, I conclude that the Unit Land was expressed to be conveyed by all the conveyances produced. By the 1956 deed the ownership of Mr and Mrs Wood was agreed. The 1861 Award having left ownership undetermined, I can, and I think ought, to give full effect to the documents produced on behalf of Mr and Mrs Parker-Brown, and conclude as I do that they are the owners of the Unit Land under the 1978 conveyance. For these reasons I am satisfied that they are the owners of the Unit Land and I shall accordingly direct the Berkshire County Council, as registration authority to register Mr Ralph Albert Parker-Brown and Mrs Wendy Ann Parker-Brown both of Five Alls Garage, Studley Green, Stokenchurch as the owners of the land under section 8(2) of the Act of 1965.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 13th — day of June — 1979

a a Baden Fuller

Commons Commissioner