



COMMONS REGISTRATION ACT 1965

Reference No.3/U/39

In the Matter of Moor End Common,
Fingest and Lane End, Wycombe R.D.,
Buckinghamshire

DECISION

This reference relates to the question of the ownership of land known as Moor End Common, Fingest and Lane End, Wycombe Rural District being the land comprised in the Land Section of Register Unit No.CL.82 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.

Following upon the public notice of this reference Fingest and Lane End Parish Council claimed to be the freehold owner of the land in question and no other person claimed 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 27 November 1973. At the hearing Fingest and Lane End Parish Council were represented by Wing Commander H. Clark their vice chairman and Mrs. Stevens and Mr. Perfect as executors of Mr. A. E. Stevens were represented by Mr. W. Kraft solicitor of High Wycombe.

Mr. Kraft said that his clients were only interested in securing access across the Common for land (an orchard adjoining the Common) owned by Mr. A. E. Stevens; he died in October 1973, and they have not yet proved his will.

Wing Commander Clark who has lived at Lane End on and off from 1949 until 1966 and permanently since 1966, in the course of his evidence produced a conveyance dated 13 December 1971 and made between William Herbert Viscount Hambleden ("the Vendor") and the Parish Council by which after reciting (among other things) in effect that the Vendor was the Lord of the Manor of Hambleden "within which it is apprehended that the piece of Common Land known as The Moor End Common as shown edged red on the plans annexed hereto is included", it was witnessed that the Vendor in consideration of £10 conveyed to the Council " ... all such rights titles and estates emoluments and appurtenances in or over the said Moor End Common ... as may be possessed by or vested in the Vendor ... for all the estates rights and title now held and enjoyed by the Vendor" subject to (among other things) the documents listed in the Schedule.

The land comprised in this Register Unit contains (according to the Register) 57.97 acres. The plan annexed to the 1971 conveyance is (so far as relevant) the same as the Register map.

Wing Commander Clark said (in effect):- The Common is grass, trees and scrub; the enclosures shown on the Register map are reputed to have been copyholds. Before 1971, the Parish Council had concerned themselves with the Common by arranging for the clearance of litter and brush wood, and had begun to realise the dangers of the



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ownership being in doubt. An approach was made to the Hambledon Estate Office who said they might have difficulty in proving ownership. After some negotiation, the 1971 conveyance was made. Since then, the Parish Council have received the rents under the Licences below mentioned, erected some posts to discourage parking of vehicles, thinned some saplings and taken some precautions against fire.

The documents listed in the 1971 conveyance (subject to which it was made) consisted of:- A Lease dated 24 May 1932 by which William Henry Viscount Hambledon (Wing Commander Clark said he died about 20-25 years ago) and his trustees granted to the Great Marlow Water Company a right to construct and maintain pipes for 999 years at a yearly rent of a peppercorn; four Licences dated 20 January 1958, 23 April 1965, 23 April 1965 and 12 February 1969 by which Lord Hambledon permitted the laying of a water pipe to the Willows, the laying of a water pipe to the Old Cottage, the construction of a road and the laying of a water pipe to Moor Cottage, and the construction of a road to Linden Cottage, each permission being expressed to be irrevocable and in consideration of a yearly payment of 5/-; and a Grant dated 12 August 1968 by which Lord Hambledon granted a right of way in fee simple for the benefit of a property known as Underwood. The 1932 Lease contained a recital that the land "forms part of the common of Moor End ... and of the Manor of Hambledon ... and the Lessor as lord of the said manor is seised in fee simple or otherwise entitled to the soil of the said common ...". The four Licences and the 1968 Grant contained a recital:- "The Grantor is the Lord of the Manor of Hambledon ... and Moorend Common ... is believed to be part of the waste of the said Manor". Wing Commander Clark produced the counterpart of the 1932 Lease and of the four Licences and a copy of the 1968 Grant.

Notwithstanding the doubts expressed by the Hambledon Estate Office and the cautious phraseology of the 1971 conveyance, I conclude from the evidence outlined above that Lord Hambledon did by the 1971 conveyance convey the Common to the Parish Council for an estate in fee simple. The above quoted recital from the 1932 Lease suggests that the title at that time was not in doubt. The appearance of the Common as it now is, the circumstance that it is called a "Common", the activities of the Parish Council as above described and their non receipt of any adverse claim all to some extent confirm the belief set out in the recital above quoted from the four Licences and the 1968 Grant as to the Common being part of the waste of the said manor. So large an area of open land not far from the Village, if not wholly owned by the Lord of the Manor or in pieces privately owned by the owners of adjoining land, would in the ordinary way either "belong to the Parish" in the popular sense of the expression (and so devolve on the Parish Council by operation of law, see Haigh v West 1393 2 Q.B. 19 and the cases cited at page 31) or belong to some other local or public authority. From the absence of any claimant (other than the Parish Council) at the hearing before me, I can I think neglect the possibility of any such private or other public ownership. In these circumstances I consider it practically certain that the Parish Council's possession of the Common under the 1971 conveyance will not be disturbed.

For these reasons I am satisfied that the Parish Council are the owners of the land, and I shall accordingly direct the Buckinghamshire County Council, as registration authority, to register Fingest and Lane End Parish Council as the owners of the land under section 8(2) of the Act of 1965.



I am not concerned with any right of access such as was mentioned by Mr. Kraft. His clients should consider the applicability of regulation 24 of the Commons Registration (General) Regulations 1966.

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 14th day of December 1973.

a. a. Baden Fuller

Commons Commissioner