



COMMONS REGISTRATION ACT 1965

Reference No 203/U/76

In the Matter of Ravenstone Playing
Field, Ravenstone, Milton Keynes
District, Buckinghamshire

DECISION

This reference relates to the question of the ownership of land known as Ravenstone Playing Field, Ravenstone, Milton Keynes District being the land comprised in the Land Section of Register Unit No VG. 75 in the Register of Town or Village Greens 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 no 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 6 October 1977. At the hearing the Master Wardens and Commonalty of Merchant Adventurers of the City of Bristol ("the Society") were represented by Mr M Tomsett solicitor of Parrot & Coles of Aylesbury as agents for S J D Awdry solicitor of Bristol. After some discussion with the agreement of Mr Tomsett, I adjourned the proceedings to later on the same day; but owing to other business there was no time later on the same day to deal with the case. On the day after the hearing I inspected the land. Some days after the hearing, I received a letter apparently written before the hearing from Mr C R Leetham chairman of the Ravenstone Parish Council giving some information about the land and expressing the hope that he would attend the hearing on 6 October with another member of the Council; I have no note or recollection of any such attendance. I held the adjourned hearing at Aylesbury on 8 March 1978; at this hearing the Society were represented by Mr Tomsett as before and the Parish Council were represented by Mr M J Amberg and Mr D Jaques two of their members.

Mr Tomsett in the course of his evidence produced: (1) a conveyance dated 23 June 1950 by which Mr A G Blunt and Mr F E Bull as personal representatives of Mr H R B Abbey (he died 17 October 1949) conveyed to Mr D R M Baker and three others lands in Ravenstone and other parishes in the counties of Buckingham and Northampton comprising 1,883.113 acres as specified in the First Schedule and delineated on the plan to hold the same upon trust for the Charity of H E Wills for Chronic or Incurable Sufferers; (2) an order dated 4 January 1957 and made by the Charity Commissioners in the matter of the said Charity; and (3) an order dated 24 September 1969 also made by them in the same matter. Mr Tomsett said (in effect):- The documents he produced had been sent to him by his principal being documents held by the Society as (?managing) trustees for the said Wills Charity. He did not know the land and could give no information about it apart from what appeared in the documents he produced.



The land ("the Unit Land") in this Register Unit contains (according to the Register) 0.61 of an acre and is (according to the Register map) OS No 96. It is situated west of and is open to the road which runs approximately north-south through the south part of the Village; it is bounded on its three other sides by a hedge; on its road side there is a small stream in a ditch, which as I read the Register map is included in the Unit Land. Access from the road is easy at the southeast corner, there being a bridge over the stream. The Register map marks a "FB" at the northeast corner over the stream, but when I walked over the land access over it was not inviting by reason of the rough vegetation thereabouts. There are on the land some swings and a few recently planted trees.

Part 17 of the First Schedule to the 1950 conveyance is headed "Roads etc." and includes "96 (OS No), Recreation Ground (Description), .612 (area)". The lands comprised in this conveyance are expressed to be conveyed subject to the rights specified in the Fourth Schedule which include: "2 As to Ordnance Survey No 96... such rights as the members of the Parish of Ravenstone may have to use the said fields numbered 96 in the said Parish of Ravenstone as a Recreation Ground."

It was not disputed that the Unit Land is the same as that referred to in the words above quoted from the 1950 conveyance. The other lands thereby conveyed (as appeared from the map annexed to it) surround the Unit Land being for the most part farms therein described as let and lands (being those immediately adjoining the Unit Land) therein described under the heading "Cottages etc" and "Allotments".

By the 1957 order stating its effect shortly the lands comprised in the 1950 conveyance including the Unit Land were vested in the Official Trustee of Charity Lands, the Unit Land being described as being subject to recreational rights in words which in all relevant respects are identical with those quoted above from the 1950 conveyance. Mr Tomsett conceded that the 1969 order is irrelevant.

Mr Amberg who has been a member of the Parish Council for about 10 or 12 years and has lived in the Parish for the last 6 years in the course of his evidence said (in effect):- The Unit Land has been in the possession of the Parish since 1930 when it was given by Squire Finch for use as a playing field for children. Squire Finch was the owner of the Ravenstone Estate, and on his death in 1940 the Estate was sold and eventually came into the possession of the Society. Since the war the Parish Council had built a hut or shelter which had since been destroyed; subsequently they erected swings and a see-saw; the see-saw was later taken down. The Parish Council have maintained the hedges, and cleaned the stream between the Unit Land and the Village Street and planted trees on the Unit Land. It is used for cricket and was used for the Village Jubilee celebrations. There is no other safe area in the Village where children can play. In respect of the Unit Land no rent has ever been paid to the Society. The Society has done nothing whatever about the Unit Land nor has anything ever been received from the Society for the upkeep of the Unit Land. The Society are the reputed owners of the surrounding farm land and much of the other surrounding land. The Parish Council have from time to time asked (unsuccessfully) for the Society's help to clean out the stream but although they have cleaned out some of the streams through their farms they have done nothing about the Unit Land stream; the Village has been flooded twice in the last 10 years and a scheme which would include the clearing out of the Unit Land stream has been under consideration.

Neither the 1950 conveyance nor the 1957 order contain any mention of the Society, so except for the circumstance that their solicitor was able to produce the conveyance and Mr Amberg's statement about their reputed ownership of the surrounding



land, I have no evidence as to why they are in any way concerned with the Unit Land. However I shall assume in their favour, as seems likely, that they are under some scheme of the Charity Commissioners or for some other good reason managing trustees of the Charity and that the ownership claim put forward by them is on behalf of "the Charity".

Mr Tomsett contended that the ownership of the Charity (that is formally of the Official Trustee of Charity Lands or their successor the Official Custodian for Charities) is established by the 1950 conveyance and the 1957 order.

As regards the Charity Ownership claim:-

The conveyance and order are some evidence of ownership but not conclusive evidence. Contra, I have: (1) the evidence of the 1950 conveyance is not of much weight because the Unit Land being such a small part of the Estate then being dealt with, it is unlikely that any detailed consideration was then given to the title to it; (2) the evidence of the 1959 order is of even less weight because it is evidence from paragraph 2 that the title was not then considered at all; (3) although the evidence of Mr Amberg is in some respects ambiguous, he was not cross-examined; I understood him to mean that the Society was approached about the Unit Land, not because they were reputed owners of it but because they were large landowners in the Village; and the substance of his evidence was that the Charity had never done anything at all in or about the Unit Land.

But I reject the evidence against the Charity (as being hearsay) of Mr Amberg's statement about the grant by Squire Finch and all his evidence about what happened more than 16 years ago.

By section 10 of the Act, the registration is conclusive evidence that the Unit Land is within the section 22 definition of a town or village green, but it leaves open any question as to which part of the definition is applicable. If the registration is based on the Unit Land being subject to a customary right, private ownership subject to such right is likely; if the registration is based on indulgence in sports and pastimes over 20 years, it is likely that this was under some informal grant by the owner, whose title has by now been extinguished by the Limitation Act 1939.

As regards the ownership claim of the Parish Council:-

If I am not satisfied with the Charity claim, it may not perhaps matter what I think about the Parish Council claim, because if they do not take under subsection (2) it must take under subsection (3) of section 8 of the 1965 Act. I am not satisfied as to the ownership of the Parish Council because in my view the evidence of Mr Amberg as to their possession is not detailed enough.

Coming back to the Charity claim:- It does not I think follow that because I am not satisfied about the Parish Council claim, I must be satisfied as to the Charity claim; subsection (2) requires me to be "satisfied", which I think imports more than some evidence of ownership. As a general rule ownership is satisfactorily proved by documents of title and by ability to deliver possession in accordance with them; but without them ownership can be proved in other ways; In my opinion the evidence of Mr Amberg casts serious doubt on the Charity's claim; if they were owners subject only to a customary right, their inactivity in relation to the Unit Land (having regard to its appearance) is extraordinary. I am therefore uncertain as to the possession of the Charity.

For the above reasons I am not satisfied that the Charity or any other person is the owner, and I shall accordingly direct the Buckinghamshire County Council, as registration authority, to register Ravenstone Parish Council as the owner of the land under section 8(3) 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 18th day of April — 1978

a.a. Bastin Fuller

Commons Commissioner