



COMMONS REGISTRATION ACT 1965

Reference No. 51/D/20

In the Matter of Land at Castle Mill Cottages
Chirk

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. CL.107 in the Register of Common Land maintained by the Clwyd County Council and is occasioned by Objection No. 133 made by Mr John Rodney Jones and Mrs Ella Vaughan Jones both of 1 Castle Mill Cottages Chirk and noted in the Register on 24th July 1972.

I held a hearing for the purpose of inquiring into the dispute at Ruthin on 4th April 1974. The hearing was attended by Mrs D. Restall (the applicant for registration) in person, and by Mr R.M. Edwards, Solicitor, of the firm of Messrs Longueville & Co., on behalf of the Objectors.

Mrs Restall gave evidence in support of her application, and Mr Albert Donald Jones gave evidence on behalf of the Objectors.

Mrs Restall is the present owner of Nos. 2 and 3 Castle Mill Cottages, having bought them from the Chirk Castle Estate in 1963. The Conveyance to her is dated 8th August 1963. In the same year, the Objectors bought No. 1 Castle Mill Cottages from the same Estate; the Conveyance to them being dated 15th March 1963. At the time when these sales took place, access to No. 2 Castle Mill Cottage was obtained by walking over the small piece of land in question through a wicket gate situate near the front door of No. 2, in the wall which separated the land in question from the front garden of No. 2. When No. 1 was sold in 1963, the Objectors as purchasers covenanted at their own expense to remove the wicket gate and brick up the gap, make a new gateway in the wall near to the public road called Bron-y-garth Road, and lay a path from the front door of No. 2 to this new gateway. The intention clearly was to increase the privacy of No. 1, because the use of the old wicket gate meant that persons going to and from No. 2 passed immediately by a window in No. 1. When the tenant of No. 2 vacated the cottage in or about the year 1965, these works were in fact carried out by the Objectors with the assent of Mrs Restall.

Unfortunately, some few years later Mrs Restall blocked up the new gateway, and sought to establish a right of way over the land in question to and from another gateway made by her near the place occupied by the old wicket gate.

It is clear that Mrs Restall's motive in applying for the registration of the land in question as common land was to acquire for herself a right to walk across it ~~from~~ from the boundary between it and No. 2. Indeed, she herself said: "I claim the land is common land for people to walk over". There was not a ~~title~~ ^{title} of evidence to show that any rights of common had ever been exercised over it.



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For these reasons I refuse to confirm the registration.

Mr Edwards asked for costs. I take the view that the application for registration in this case was not made bona fide and was wholly unjustified, and accordingly I shall order that Mrs Restall pays the Objectors' costs on the County Court Scale 4.

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 16th day of August 1974

H. E. Francis

Commons Commissioner