



COMMONS REGISTRATION ACT 1965

Reference No 51/U/41

In the Matter of Land at Yr Hen Ar^od
Erryrys Glyndwr D

DECISION

This reference relates to the question of the ownership of land at Yr Hen Ar^od Erryrys Glyndwr D being the land comprised in the Land Section of Register Unit No CL 101 in the Register of Common Land maintained by the former Denbighshire 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 Mr and Mrs Anderson claimed to be the freehold owner of part 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 Denbigh on 21 February 1978. Mr J J Lowe of Messrs A & J E Fletcher appeared for Mr and Mrs Anderson and Mr I L Watkins of Messrs A O Evans & Co appeared for the Llanarmen-gn-lal Community Council. This is a boundary dispute concerning a few feet of land. The history insofar as it was disclosed at the hearing is that on 10 August 1965 Caradoc Drury conveyed to S A Senior the land now owned by Mr and Mrs Anderson. Hereafter Mr Senior conveyed the land to a Mr and Mrs Willman and on 13 December 1976 Mr & Mrs Willman conveyed the land to Mr and Mrs Anderson. On 18 March 1965 Edith Ann Drury made a statutory declaration with a plan annexed identical with the plan annexed to the conveyance dated 16 August 1965. This plan discloses that two parcels of land are edged red and one edged blue were comprised in the conveyance. No question arises with regard to the land edged blue and the difference between the parties is as to the boundaries of the land edged red.

The land as originally registered without doubt ~~included~~ part of the lands edged red and blue on the said plan, Mr Senior objected to the ~~inclusion~~ of these lands and by agreement two parcels of land were excluded from the registration. I have only been provided with a small scale copy of the Register map and I cannot identify the land edged red which has been excluded. The question I have to resolve is whether or not Mr and Mrs Anderson own any land which was not excluded from the registration as aforesaid.

The conveyance of 1965 described the land edged red as comprising 22 roads or thereabouts which was manifestly wrong but this error may be attributable to the fact that by amendment a field Lot Owen was excluded and there was no consequent amendment of the area. The real difficulty arises from the plan which shows the boundary of a triangular plot of land on the East of the property as being bounded on the North and South by ^{measure} post and wire fences. Mr Senior who gave evidence said there were no such fences on the site either when he acquired the land or when he disposed of it. His interests were in the shop in the premises formerly the Black Boy public house and the garage. He was not interested in the land at the rear of these premises.



When Mr Willman acquired the property he erected the fences which are still on the site and whatever may be the true boundaries Mr Anderson cannot be criticised for believing that the boundaries are these established by the fences as he found them when he acquired the property.

Mr Watkins stands by the statutory declaration made by Edith Ann Drury and the plan ~~conveyed~~^{annexed} thereto and the identical plan annexed to the conveyance to Mr Senior but since the boundaries on that plan were defined by fences which did not exist when that plan was made the problem of defining the boundaries on the ground remains outstanding.

I inspected the land together with Mr Watkins and Mr Lowe and in the presence of other interested parties.

This inspection revealed that the present fence on the North shown on the plan as a straight fence is in fact erected on an old wall which has fallen into disrepair and which at what is shown on the plan as the apex of a triangle curves in a south easterly direction and traces of this old wall can be found continuing towards the West and a place where there was a gate across a footpath. It was common ground among all these present that this old wall was a boundary wall and I am satisfied that the Northern boundary is the old wall and that what ~~the~~^{for} convenience I will call the apex of the triangle is at a point where the old wall turned away south east is the former gate now identified by the most southerly of two substantial posts holding the existing part and wire fence.

Having ~~fenced~~^{fixed} the apex of the triangle it remains to establish the southern boundary and for this purpose I revert to the plan which identified an old stone building which is easily identified and which was part of the property conveyed to Mr Senior and the southern side of the triangle is shown on the plan as being 98 ft in length from the apex to a point where it joins what was a hedge running almost due North from the East Side of the old stone building.

I have come to the conclusion that the land conveyed to Mr Senior and therefore the land now owned by Mr and Mrs Anderson cannot be greater in extent than that enclosed by the old stone wall and a fence 98 ft in length from the apex of the triangle to a point where it joins a line running north and south from the east side of the old stone building.

I am unable to say whether the area of the land owned by Mr and Mrs Anderson defined by me as aforesaid is greater or less than that excluded from the Register. Insofar as the area is greater I shall if necessary direct the Clwyd County Council to register Mr and Mrs Anderson as the owners of that land but since only a few feet of land are involved the convenient course would be for the Registration authority to accept that the excluded land was that in the ownership of Mr and Mrs Anderson and to ensure that the Register Map accords with the large scale plan ~~with~~ which ~~they~~ will be forwarded.



On my view it will be necessary for the parties to agree a large scale plan giving effect to the boundaries defined by me as aforesaid. This large scale plan will have to be submitted, when agreed, to the Registration Authority. Thereafter when I am satisfied whether or not Mr & Mrs Anderson's land is in excess of the excluded land I will give the appropriate direction.

Any land not owned by Mr and Mrs Anderson will remain subject to protection under Section 9 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

23rd

day of

May

1978

G. A. Settle

Commons Commissioner