

COMMONS REGISTRATION ACT 1965



Reference Nos 206/D/650
206/D/651
206/D/674
to 677 inclusive

In the Matter of (1) pieces of land
and (2) other pieces of land, additional
to Clodgy Moor, Paul, Penwith District,
Cornwall

DECISION

These disputes relate to the registrations at Entry No. 1 in the Land Section and in the Rights Section of Register Unit No. CL 484 in the Register of Common Land maintained by the Cornwall County Council and at Entry No. 1 in the Land Section and in the Rights Section of Register Unit No. CL 460 in the said Register and are (CL 484) occasioned by Objection No. X.191A made by the said Council and noted in the Register on 25 June 1973 and ~~the registration of CL 460~~ (CL 46) occasioned by Objection No. X.253 made by Mr Eric Charles Harvey and noted in the Register on 3 March 1971 and by Objection No. X.1103 and made by Mr J E G Scobie as managing agent of the Bolitho Trust and noted in the Register on 2 October 1972.

I held hearings for the purpose of inquiring into the disputes at Camborne on 17 May 1979. The hearing for CL 460 was attended by Mr J Jeffery-Burt of Clodgy Moor House, Sheffield, Paul in person, and by Cornwall County Council who were represented by Mr D Gill their Commons Registration Officer. The hearing for CL 484 was attended by the County Council represented as aforesaid. Shortly after these hearings, I heard Mr Scobie who attended, in relation to the CL 460 land as representing Major Simon Edwards Bolitho and Barclays Bank Trust Company Limited being the trustees of the Bolitho Trust.

Clodgy Moor is an irregularly shaped tract of rough ground on the OS map (6 ins = 1 mile) so called without any precision as to the exact boundary. Regarded as including the lands in Register Units Nos CL 199, CL 248, CL 460 and CL 484, it extends for about a mile from Kerris on the northwest to the B3315 road (Penzance to Lands End by the coast) on the southeast. The CL 460 and CL 484 lands are a number of pieces, all small (when compared with the CL 199 and the CL 248 lands) near and within the boundaries of the said tract.

The CL 460 Land Section registration was made on the application of Cornwall Naturalists' Trust Limited and their application included the CL 199 and CL 248 lands (but not the CL 484 land). The CL 460 land comprises five pieces:- The Southwest Piece (the largest) and the South Piece (extending to and across the B3315 road) is within Objection No. X.1103 (Bolitho) and the East Piece is within Objection No. X.253 (Harvey).

In a letter dated 18 January 1979 the Naturalists' Trust agree in view of Objections X.253 and X.1103 to this registration being withdrawn. Mr Jeffery-Burt said that in October 1977 he bought part of the Southwest Piece (at the east end) being his dwellinghouse and garden. Mr Scobie said that the X.1103 Objection lands are agricultural areas.

In view of the 1979 letter I conclude that the South Piece, the Southwest Piece and the West Piece were not properly registered, and accordingly my decision is that the objections succeed.



As to the two remaining CL 360 pieces:- Mr Scobie said that they were small pieces of land by the side of private access roads leading from Kerris to farms part of the Bolitho Estate. One of them, the North Piece is according to the Rights Section Register land over which (at Entry No. 1) the Bolitho Trustees claim a right of common, such right being also over the CL 199 land (excluding a small part) and the CL 248 land. However by comparing my copy of the Register map with my copy of the map attached to the application by the Bolitho Trustees for the registration of their right of common, I feel some doubt whether they (or perhaps Mr Scobie on their behalf) ever intended to register a right of common over the North Piece. The remaining piece, the Kerris Piece is a narrow strip leading from Kerris to the Codgy Moor Tract. After discussion with Mr Scobie, there seemed to me to be no good reason why these two pieces should remain on the Register. So I conclude that I can in accordance with the general withdrawal by the Naturalists' Trust as set out in their 1979 letter, avoid all these registrations.

For the above reasons I refuse to confirm the registrations in the Land Section and the Rights Section of Register Unit No. CL 460.

The CL 484 land consists of three pieces, very small compared with the Codgy Moor tract; two of these are in the private road area mentioned by Mr Scobie, and the third is at a public road junction. It appears that they have only been registered because Messrs T H and S H Chellew when applying for a registration of a right of common over part of the CL 199 land included in their application these three small pieces which were not included in the application made by the Naturalists' Trust.

Messrs Chellew (a letter dated 1 May 1979 from their solicitors) say that they no longer own the land to which the said right is attached and that the solicitors for the present owner a Mr T J C Michell have been advised of this hearing. In the absence of any evidence supporting the right as far as it relates to the CL 484 land, I conclude that the Rights Section registration should not have been made and that there was therefore no justification for the Land Section registration made in consequence of the said application for registration of rights.

For these reasons I refuse to confirm the registrations in the Land Section and in the Rights Section of Register Unit No. CL 484.

Nothing in this decision affects the registrations in Register Unit Nos CL 199 and CL 248.

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 5/6 — day of June 1979

a. a. Baden Fuller

COMMONS COMMISSIONER