



COMMONS REGISTRATION ACT 1965

Reference No. 206/R/16

COMMON LAND (RECTIFICATION OF REGISTERS) ACT 1989

In the Matter of Land at Cove Cottage, part of Zennor Cliffs

DECISION

This reference relates to an objection under the Common Land (Rectification of Registers) Act 1989 to the registration of part of the land registered in Entry No. 4 in the Land Section of Register Unit No. CL.703 in the Register of Common Land maintained by the Cornwall County Council.

It is occasioned by Objection No.16 made by Mr and Mrs R W Crowther and referred to a Commons Commissioner on 20 July 1992.

I held a hearing to inquire into this objection at Penzance on 18 May 1993, at which Mr and Mrs Crowther and Mr Trembath attended: but as no witnesses were available I adjourned the hearing. The adjourned hearing took place at Penzance on 18 January 1994, and I viewed the land shortly afterwards.

At the hearing Mr and Mrs Crowther, the objectors, were represented by Mr Nicholas Simpson, Solicitor, of St. Ives: Mr Kenneth Berryman, and Mr Crowther gave evidence. Mr Trembath, who opposed the objection, attended but did not give evidence. Mr Wright represented Cornwall County Council the registration authority.

The objection land, Cove Cottage, lies on the east side of Gurnard's Head on the north coast of Penwith. It occupies a promontory between Treen Cove and Rose-on-hole Cove, and is approached by a precipitous track from the village of Treen a mile or so to the south. Its northern boundary is the cliff edge some 50' or more above the nearby beaches. The property shown as an enclosure on the 1907 Ordnance Survey Map, and Mr Berryman, who was born at Treen in 1926 and has always lived at Treen Farm told me that the property is now just as it has been all his life. On inspection, the property consists of a stone cottage built on a level piece of ground, and protected at the rear by a substantial stone hedge. There is evidence of substantial man-made alteration to the ground, where level areas have been created, paths and steps installed, and most parts of the land that are accessible show evidence of having been altered by human agency. Mr Crowther, who has been the occupier of the cottage since 1970, told me that when he arrived (though the property was then dilapidated and overgrown) he found the following plants growing in various parts of the garden, viz, fuchsias, roses, buddleia, hebe, hydrangeas, daffodils, columbines, elder, michaelmas daisies and strawberries.

As of now, the western part of the site, surrounding the cottage, presents the appearance of a well-cultivated garden with lawn and patios, flower beds and vegetable patches. The eastern part of the site, which lies lower down the cliff and along the cliff edge, consists very largely of a rectangular building now roofless and partly ruined: to the rear of that is a ravine which once held a water-wheel and then became a rubbish dump: this is now occupied by a hut containing the electricity generating plant which serves the property. Even the cliff-face below the property shows signs of human activity: in one place a substantial section of cliff face has been rebuilt out of granite blocks, and



there are visible the remains of handrails which protected a path which led down to Treen Cove.

The building I have referred to was, I was told, formerly a pilchard packing factory, but the pilchard fishery was abandoned in about 1880, and, I apprehend, the factory was allowed to become derelict. Apart from one corner, where Mr Crowther has put in a roof and made an area for drying timber (which is cast up by the sea from time to time - at the time of my visit a number of substantial planks had been retrieved by Mr Crowther and others could be seen still floating in the sea), the building is not used for any purpose. Nevertheless, the authorities on the construction of the 1989 Act show that, for the purposes of the Act, the dereliction or disuse of dwellinghouses and gardens is irrelevant so long as they are still recognisable as such, and in my opinion the same principle applies to that building, which is, and has in my opinion since 5 August 1945 been, an "outbuilding" ancillary to Cove Cottage.

In these circumstances I consider that the requirements of Section 1(2) of the 1989 Act are satisfied in the case of the whole of the land to which this objection relates.

I am required by regulation 22(1) of the Common Land (Rectification of Registers) Regulations 1990 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

31st

day of

January

1994

A handwritten signature in cursive script, appearing to read "Mr. Guntow".

Commons Commissioner