



COMMONS REGISTRATION ACT 1965

Reference No. 206/R/39

COMMON LAND (RECTIFICATION OF REGISTERS) ACT 1989

In the Matter of Land at Lake View forming part of Tremar Coombe
Common, St. Cleer

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. 1 in the Land Section of Register Unit No. CL.150 in the Register of Common Land maintained by the Cornwall County Council.

It is occasioned by Objection No. 24 made by John Humphrey and referred to a Commons Commissioner on 2 March 1993.

I held a hearing to inquire into this objection at Liskeard on 26 January 1994.

At the hearing the Objector appeared in person and gave evidence. The land the subject of the Objection ("the land") is shown on the plan attached to the Notice dated 23 June 1992. It consists of 4 separate areas as follows:

- (a) a cottage known as 3 Lake View ("the cottage"). This stands on the south west rectangle, which runs from north to south.
- (b) a very small square area, with a building thereon, situate immediately to the north of (and a few feet from) the cottage ("the outbuilding")
- (c) a very small square area, with a building thereon, situate a few feet to the north east of the outbuilding ("the pigstye")
- (d) a relatively large rectangular area situate to the south and south east of the pigstye ("the rectangle").

It was submitted that the land is now and has since 5 August 1945 been the site of a dwellinghouse and outbuildings and a garden ancillary thereto within the meaning of the 1989 Act.

Mr Humphrey produced a photocopy of a Conveyance dated 29 November 1923 (Hawker and others to Hancock) which conveys property described as "All that Cottage with the gardens in front and rear thereof and the outbuildings and pigs stye thereto belonging known as No. 3 Lake View situate at Tremar Coombe aforesaid..." by reference to a plan which is for all material purposes the same as the plan attached to the Notice of Objection referred to above.

The Objector purchased the land in March 1990. He had no previous knowledge of St. Cleer. The Cottage was empty when he purchased it but shortly thereafter he let it and it is now let to a tenant as a dwelling for a fairly long term of years together with the rectangle, the outbuilding and the pigstye.

Mrs Enyd Piper next gave evidence. She said that she has known the land very well since a date several years prior to 1945. She said that 3 Lake View had to her knowledge always comprised the cottage and 2 outbuildings (including the pigstye) and that during the 1939 - 1945 World War and for several years



thereafter the rectangle was tended as a vegetable patch by the occupant of the Cottage. Part thereof continued to be tended until the 1960s but during the past 20 years or so it has been neglected.

Nobody opposed the Objection at the hearing and no evidence has been produced which contradicts or puts in doubt any of the evidence summarised above. I accordingly accept that evidence, on the basis of which I conclude:

1. That the Cottage was a dwellinghouse in 1945 and has continued to be such, for the purposes of the 1989 Act, down to the present time:
2. That the outbuilding and the pigstye have existed since prior to 1945 and are to be treated as "outbuildings" of the Cottage throughout this period:
3. That the rectangle is to be treated as "garden" of the Cottage throughout the same period.

I accordingly 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

8th

day of

February

1994

Commons Commissioner