



In the Matter of Lanivet Village Green,  
Cornwall

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DECISION

These disputes relate to the registrations at Entries No. 1, 2 and 3 in the Ownership section of Register Unit No. VG 617 in the Register of Town or Village Greens maintained by the Cornwall County Council which conflict as between Entries No. 1 and 2 and as between Entries No. 2 and 3.

I held a hearing for the purpose of inquiring into the dispute at Bodmin on 10 July 1979. The hearing was attended by Mr D M Gill of the Registration Authority and by Mr J G Romany, Solicitor, on behalf of the applicants for registration at Entries No. 1 and 3.

2. The land in this register unit ("the Unit land") comprises two separate parcels, a small triangular area separated by road on its southern boundary from the much larger area ("the disputed area"), and the disputes concern only the latter. Entries No. 1 and 3 relate respectively to different parts of the disputed area: there is no conflict between these two Entries, but each, as regards its own part, is in conflict with Entry No. 2 which was made on the application of Lanivet Parish Council claiming ownership of the whole of the Unit land. There was no appearance at the hearing by the Parish Council.

3. Entry No. 1 was made on the application of Lilian C Arthur and Marion E Turner and relates to two small pieces of land, on one of which there stands a shop and on the other a store. The only document of title produced is an Assent dated 10 October 1961 made in their favour by the Executors of William J Tonkin and comprising the two properties. As to the title of William J Tonkin, six statutory declarations were produced (1) made on 18 July 1963 by Samuel Hector Honey (11) made on 3 July 1964 by John Edwin Tonkin (111) made on 3 July 1964 by William Roy Tonkin (1V) made on 3 July 1964 by Reginald Charles Arthur (V) made on 3 July 1964 by Leslie Crocker (VI) made on 11 August 1967 jointly by the said W R Tonkin, R C Arthur and L Crocker. Four of these statutory declarations referred to purchases by William J Tonkin of both properties in the 1930's, but no conveyances to him were produced. I am satisfied, however, on the facts deposed to in the statutory declarations that William J Tonkin acquired a possessory title to the two properties in his lifetime, which devolved on the two applicants by virtue of the Assent dated 10 October 1961. Accordingly I confirm the registration at Entry No. 1 and refuse to confirm the registration at Entry No. 2 so far as it comprises the two pieces of land which are comprised in Entry No. 1.

4. Entry No. 3 was made on the application of William Roy Tonkin and relates to an area of land ("The Tonkin area") on which stand three buildings - a garage and two showrooms. Two Conveyances on sale were produced - the first dated 14 August 1915, Between S H Vivian (1) and James Lobb (2) whereby there was conveyed to James Lobb a piece of land together with the Blacksmith's shop and iron house erected thereon and the approaches and appurtenances thereto belonging situate at Churchtown in the parish of Lanivet: the second Conveyance was dated 6 April 1944 and made between James Lobb (1) and Charles Vanderwolf (2), and this property by the same description was conveyed to Charles Vanderwolf. It is not possible to identify this property as described on the



Conveyances with any part of the Tonkin area, but there was a statutory declaration made on 2 March 1907 by Walter Vivian from which it appears that the property conveyed was part of that area, the Blacksmith's shop being the building designated 'Smithy' on the register map, where now stands one of the showrooms. The title to this property was not further deduced, and William Roy Tonkin's claim is based on his succession to the possessory title of his father William John Tonkin. The evidence as to this possessory title is contained in four Statutory Declarations - by J E Tonkin, Leslie Crocker, R C Arthur and William Roy Tonkin all made on 3 July 1964. These Statutory Declarations all referred to purchases by William John Tonkin of the two showrooms but no conveyances were produced. I am satisfied however on the facts deposed to in the Statutory Declarations that William John Tonkin acquired a possessory title to the Tonkin area in his lifetime, and after his death an Assent by his personal representatives vested the Tonkin area in the applicant William Roy Tonkin. It is some further confirmation of his title that by a Deed of Exchange dated 8 February 1965 he conveyed a strip of land adjoining the western boundary of the Tonkin area (this strip being part of the land comprised in the possessory title) to the Minister of Transport in exchange for the Conveyance to him of a small area adjoining the south-eastern boundary.

In the result I confirm the registration at Entry No. 3 and refuse to confirm the registration at Entry No. 2 so far as it comprises the Tonkin area.

5. So far as Entry No. 2 is concerned, the overall result is that I refuse to confirm the registration so far as it comprises the pieces of land which are comprised in Entries No. 1 and 3 and confirm the registration so far as it comprises the remainder of the Unit Land.

6. Mr Romany asked for an order for costs against the Parish Council. He said that the Council accepted plans submitted in the 1940s - 1950s for consent to rebuilding the shop on the land comprised in Entry No. 1 and in 1953 for rebuilding one of the showrooms on the Tonkin area. He also produced letters from the Parish Council, one dated 19 October 1968 apparently recognising the ownership of the shop and store in Mrs Arthur, the other dated 30 October 1970 offering a licence to Mr Tonkin of the small area already conveyed to him by the Minister of Transport, without making or implying any challenge to his title to the Tonkin area. Mr Romany's application was based on this apparent knowledge of the ownership in both cases: be this as it may, some years have elapsed since these letters were written, and Mr Romany was not able to say that there had been any subsequent representations to or discussion with the Parish Council which would have made them aware of the case to be made in support of his client's claims. The Parish Council has not appeared to contest these claims, and in all the circumstances I do not think that it has acted so unreasonably as to make an order against it for costs appropriate: and I make no order as to costs.

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

22<sup>nd</sup> August

1979

*L. J. Morris Smith*  
Commons Commissioner