



In the Matter of Retire Common, Withiel and
Roche, Cornwall

DECISION

This reference relates to the question of the ownership of land known as Retire Common, Withiel and Roche, being the land comprised in the Land Section of Register Unit No. CL 218 in the Register of Common Land maintained by the Cornwall 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 Tehidy Minerals Ltd, the Trustees of the Treffry Estate, and Mr G A Hancock claimed to be the freehold owners of parts 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 Bodmin on 4 July 1984.

At the hearing Tehidy Minerals Ltd was represented by Mr J D Lamond, Solicitor, and Mr Hancock by Mr G J Chisholm, Solicitor.

By an indenture made 19 January 1920 between (1) Thomas Charles, Viscount Clifden (2) Tehidy Minerals Ltd there were conveyed to Tehidy Minerals Ltd Lord Clifden's one-third share in the eastern half of the land comprised in the Register Unit and his one-eighth share in the western half of the land. Mr Lamond had no evidence as to the ownership of the other shares in either half of the land on 1 January 1926, but he argued that the entirety of both halves vested in the Public Trustee by virtue of para. 1 (4) of Part IV of the First Schedule to the Law of Property Act 1925. Such vesting occurred in any case to which the foregoing provisions of that Part of the Schedule did not apply, and Mr Lamond based his argument on the fact that there was no evidence that any of those provisions applied in this case. It is however, possible that on 1 January 1926 the entirety of each half of the land was vested absolutely and beneficially in not more than four persons of full age entitled thereto in undivided shares, so as to bring the case within para. 1 (2). In the absence of evidence that this possibility was not an actuality, I cannot say that I am satisfied that the provisions of para. 1 (2) did not apply to this case so as to bring it within para. 1 (4).

On 13 October 1934 the husband of the late Mrs M E Hancock purchased a second-hand railway carriage, which he shortly afterwards placed on land in the north-western corner of the western half of the land comprised in the Register Unit. Mr and Mrs Hancock lived in the railway carriage from then until Mr Hancock died on 4 March 1947, and Mrs Hancock continued to live there until she died on 23 June 1973. Shortly after Mr and Mrs Hancock moved into the railway carriage Mr Hancock fenced in an area of land 420 ft x 460 ft, which has since been treated as the curtilage of the railway carriage, which is now known as Swindon Villa.

Mrs Hancock died intestate and letters of administration of her estate were granted to her son, Mr J J Hancock, on 4 September 1973. By a conveyance made 11 April 1974 between (1) Jonathan John Hancock (2) Gordon Albert Hancock Swindon Villa was conveyed to Mr G A Hancock, who still lives there.



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On this evidence I am satisfied that Mr G A Hancock is the owner of the part of the land known as Swindon Villa and I shall accordingly direct the Cornwall County Council, as registration authority, to register him as the owner of the land under section 8(2) of the Act of 1965.

In the absence of any further evidence I am not satisfied that any person is the owner of the major part of the land comprised in the Register Unit, which will therefore 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 20th day of July 1984

Chief Commons Commissioner