



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

DECISION

This reference relates to the question of the ownership of the 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, Mr J Bamford, 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.

This hearing was, however a nullity since Mr Bamford was not given notice of it, so I held a fresh hearing at Bodmin on 5 February 1985. On this occasion Tehidy Minerals Ltd was represented by Mr Lamond, and Mr Bamford and Mr Hancock appeared in person.

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. The only other material (to use a neutral expression) which Mr Lamond produced was a letter dated 23 July 1973 addressed to the Clerk of the former Cornwall County Council by Mr G Holdsworth, the former Secretary of Tehidy Minerals Ltd. In this letter Mr Holdsworth stated that details of the ownership of the western portion of Retire Common, as obtained from the Lanhydrock Estate Company, which managed Lord Clifden's estate, showed that there were eight owners, whose names he set out, and that there were three named owners of the eastern portion..

While this letter would not be evidence in a court, I have to bear in mind that these proceedings are not a lis inter partes, my duty under Section 8 (3) of the Act of 1965 being to "inquire into the matter". I have therefore come to the conclusion that in the absence of any further information I can regard the information in Mr Holdsworth's letter as showing that Tehidy Minerals Ltd had seven co-owners of the western half of the land



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and two co-owners of the eastern half. In these circumstances the part of the land with eight co-owners has been vested in the Public Trustees by virtue of para.1 (4) of Part IV of the First Schedule to the Law of Property Act 1925 and the part of the land with three co-owners is vested in Tehidy Minerals Ltd and the other two co-owners as joint tenants upon the statutory trusts by virtue of para 1 (2) of Part IV of the same Schedule.

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.

A small area of land at the northern end of the east side of the land the subject of the reference was conveyed to Mr Bamford and his wife by a conveyance made 26 April 1977 between (1) Peter Tranter and Patricia Anne Tranter (2) John Louis St. John Bamford and Patricia Anne Bamford, the root of title being a conveyance made 23 April 1948 between (1) John Stephen Lovering (2) Arthur Davies. Although this area is within the eastern half of the land the subject of the 1920 indenture, Mr Lamond agreed that Mr and Mrs Bamford have a good title to it.

In this evidence I am satisfied that the Public Trustee, Tehidy Minerals, Mr G A Hancock and Mr and Mrs Bamford are the owners of parts of the land, and I shall accordingly direct the Cornwall County Council, as registration authority, to register them as the owners of their respective parts of the land under section 8 (2) 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 is being erroneous in point of law may, within 4 weeks from the date which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

ted this

28th

day of February

1985

Chief Commons Commissioner