



In the Matter of Sperris Croft, Towednack and Zennor.

SUPPLEMENTARY DECISION

This decision is Supplemental to my decision made in the matter on 26 January 1983 as slightly amended on 8 March 1983.

On 23 March 1983 I received a letter from Solicitors acting for Mr P Heron, an unsuccessful claimant to be the owner of part of the land, requesting me to reopen the case on the ground that Mr Heron who had conducted his own case had been unable properly to state his case for the following reasons in particular.

- (a) No opportunity was given to him to know what was the nature of the rival claims which were advanced against his own claim.
- (b) Copies of the documents submitted by other parties were not made available to him.
- (c) He appeared in person, but found that no explanation was given of the procedure which would be followed.
- (d) It was not made plain to him that he could ask to give evidence on oath and for the evidence of other witnesses to be given on oath.

I heard the application at Camborne on 1 November 1983 and 12 January 1984.

The hearing was attended by Mr N Dowding of Counsel instructed by Messrs. Russell Jones and Co. Solicitors of Welwyn Garden City appearing for Mr Heron, Mr Williams for the Registration Authority, Mrs A Symons in person, Mr P S Wood of Messrs. J R Lloyd and Co, Solicitors of Hayle for Mr R Noy.

Mr Dowding submitted that a Divisional Court would quash the decision of a Tribunal on the application of an aggrieved party, that his case had not been fairly put to the Tribunal, even in a case where that party had to some extent contributed to that result. This was particularly the case where the party had appeared in person. For this proposition he relied on the chapter in ~~National~~ Justice in Judicial Control of Administrative Action by the late S A de Smith.

Mr Lloyd submitted that the facts relating to the hearing did not entitle Mr Heron to have the hearing reopened.

Mrs Symons said that Mr Heron had seen the Statutory Declaration by Mr Nankervis but not the Conveyance to her, though he was aware that she was claiming the strip.

Having considered these submissions I decided that Mr Heron had made out his case and that I ought to reopen the hearing rather than put the parties to the expense of applying to the Divisional Court.



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Mr Dowding then stated that his client did not challenge the decision so far as it related to Mr Noy. He then called evidence in support of his clients claim to part of the land claimed by Mrs Symons. For reasons which will shortly appear I do not propose to set out the gist of that evidence in this decision.

At the resumed hearing on 12 January I was informed that Mr Heron and Mrs Symons had reached agreement as to their respective claims and I adjourned resumption of the hearing while they checked boundaries on the ground.

After the adjournment on January 12, the parties handed in an agreement, a copy of which will be lodged with the Registration Officer and invited me to give effect to that agreement for my decision. The plan attached to the agreement shows how the land ownership of which I had awarded to Mrs Symons is to be divided between her and Mr Heron.

For these reasons I am satisfied that my earlier decision should be varied and that I should hold that the land of which I held was owned by Mrs Symons is now owned by Mrs Symons and Mr Heron in the proportions indicated in the said agreement and for all accordingly direct the Cornwall County Council as registration authority to register each of them owners of a part of such land under section 8 (2) of the Act of 1965.

As required by regulation 30 (1) of the Commons Commissioners Regulations 1971 I do 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 30th day of January 1984

Levy Hesketh

Commons Commissioner