

COMMONS REGISTRATION ACT 1965



Reference No. 206/U/138

In the Matter of Trewellard Common
(or Carne Hill) at Pendeen, St Just

DECISION

This reference relates to the question of the ownership of land above mentioned being the land comprised in the Land Section of Register Unit No. CL 493 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 Mrs Thurley and the executors of Mrs M Trembath each claimed to be the freehold owner of a part 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 Camborne on 23 November 1982.

Miss H A Stokes of Messrs Pool, Purchase and Le Grice, Solicitors of Penzance appeared for Mrs Thurley and Mr Butler of Messrs Borlase and Benning, Solicitors of Penzance appeared for the Executors.

Miss Stokes produced a Statutory Declaration made by her client on 19 November 1982 setting out the use she and her husband had made of part of the land which adjoining Carn Hill Cottage, where they both lived. Mr Dennis Trembath who was aged 54 and was an executor with Thomas Trembath of the estate of his mother's will gave evidence for his mother's estate. His father William Trembath who died in 1948. In 1951 he and his mother purchased Trewellard Hill Farm. Previously the family had been tenants of the farm, which was about 50 acres.

The smaller of the two parts of the unit is not fenced in. Fencing in of the larger of the two parts began before 1948 and has continued spasmodically until the perimeter was completely fenced in in 1979.

In my judgment the evidence produced on behalf of either claimant does not establish that either has acquired a title by adverse possession to any part of the land.

On this evidence I am not satisfied that any person is the owner of the land or any part of it and it 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

26th

day of

January

1983

George Hurrell

Commons Commissioner