



COMMONS REGISTRATION ACT 1965

Reference No. 20/U/55

In the Matter of Ease Meadow, Kirkby
Ireleth, South Lakeland D., Cumbria

DECISION

This reference relates to the question of the ownership of land known as Ease Meadow, Kirkby Ireleth, South Lakeland District being the land comprised in the Land Section of Register Unit No. CL.206 in the Register of Common Land maintained by the Cumbria 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 Mr. Jack Ellwood and Mrs. Amy Ellwood and their solicitors and the solicitors for their vendors (the Executors of Rowland Livesey) wrote either claiming or giving information about the ownership of this land, and Mr. R. Wearing wrote saying that he is the Trustee in the estate of the Exors. of the late John Wearing who was the owner. No other person claimed to be the freehold owner of the land in question or 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 Kendal on 5 March 1975. At the hearing (1) Mr. Jack Ellwood and Mrs. Amy Ellwood were represented by Mr. E. Satterthwaite solicitor of Thomas Butler & Son, Solicitors of Broughton-in-Furness; (2) Mr. Ralph Wearing attended in person; and (3) Kirkby Ireleth Commoners' Association were represented by Mr. W.D. Knipe, their secretary.

The land ("the Unit Land") comprised in this Register Unit contains (according to the Register) about 6.520 hectares (16.11 acres). Two rights to the herbage every alternate year attached to (1) Well Wood Farm and (2) Far Houses Farm have been registered in the Rights Section on the application of (1) Mr. John Livesey as sole surviving executor of Rowland Livesey and (2) Mr. Ralph Wearing respectively; two rights to graze cattle attached to the same lands have also been registered on the application of the same persons.

Mr. J. Ellwood in the course of his evidence produced a conveyance dated 4 July 1969 by which Mr. J. Livesey as surviving personal representative of Rowland Livesey (he died 4 March 1966) conveyed to him (Mr. J. Ellwood) and his wife (Mrs. A. Ellwood), Well Wood Farm (about 78 $\frac{1}{2}$ acres) together with (among other property) "ALL THOSE two dales or stints ... known as Hard Acre nearer to the Pool and Hard Acre further from the Pool now in an inclosure known as Ease Meadow ... the rights over which are used and enjoyed every year alternately".

Mr. Wearing who is 67 years of age, in the course of his evidence produced an indenture dated 11 August 1920 by which the Executor of John Ashburner (he died on 21 December 1911) and his mortgagee conveyed to Mr. John Wearing the freehold estate known as Far Houses (about 5 $\frac{1}{4}$ acres) together with (among other property) "all those two closes ... called .. Fell Gate Meadow and Far Houses Meadow ... and the acres or dales in Ease Meadow adjoining



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ing thereto called Far Hard Hall, Near Hard Acre, Bush Acre, and Bridge Acre ... which said ... premises are now called ... Ease Meadow and contain altogether ... sixteen acres ...". Mr. Wearing said (in effect) :- Mr. John Wearing was his father; he died in 1941. He and his brother are the executors and trustees of the will which they had proved. He had lived at Hill Farm (next to Far Houses) since he was 5 years old. He is now the tenant; his father from 1912 was the tenant before he bought. He remembered his father buying Far Houses. He and his father had grazed the Unit Land. Nobody else had grazed it, neither Mr. Rowland Livesey (who bought in 1947 and who had a tenant Mr. J. Postlethwaite) ever grazed it. He could not identify the dales named in the 1920 indenture.

Mr. Knipe produced the Kirkby Ireleth Tithe Award dated 14 April 1847 and sealed by the Tithe Commissioners on 18 June 1847. The map showed the Unit Land as comprising four small pieces and one very much larger piece. The Schedule showed the larger piece (9-2-19) as then called "East Meadow", cultivation "meadow", as tithable and owned by Joseph Stables and occupied by himself; and the four smaller pieces (1-2-22, 1-1-16, 2-0-2, and 1-3-24), then all called "Meadow Dale", cultivation not specified, not tithable, and owned by Joseph Stables and Mary Higgins and all occupied by Joseph Stables and Solomon Redhead.

After the hearing Mr. Wearing sent me a copy of his father's will dated 10 September 1940 and of the probate granted to his brother Mr. John Henry Wearing and himself.

Notwithstanding that neither Mr. Ellwood nor Mr. Wearing could identify the dales named in their deeds, I conclude that together the dales described in the 1969 conveyance and the 1920 indenture comprised the whole of the Unit Land. The claim of Mr. & Mrs. Ellwood and of Messrs. Wearing to be the only persons interested in the Unit Land is consistent with the 1847 Award which shows that at that time all the Unit Land was held by only two, or two groups of persons. They were agreed that the Ellwood part of the Unit Land was the south part being two pieces shown separately on the Register map and corresponding a little more or less to two of the small pieces described in the 1847 Award, and that the Wearing part from the rest. I can I think, properly act on this agreement.

For the above reasons, I am satisfied that Mr. & Mrs. Ellwood and Messrs. J.H. and R. Wearing are together the owners of the whole of the Unit Land (of the parts so mentioned) and I shall accordingly under section 8(2) of the Act of 1965 direct the Cumbria County Council as registration authority to register Mr. Jack and his wife Mrs. Amy Ellwood both of Pear Tree Farm, Kirkby-in-Furness as the owners of the parts hereinafter specified of the Unit Land and to register Mr. John Henry Wearing of 26 Shakespear Street Barrow-in-Furness and Mr. Ralph Wearing of The Hill Farm, Heathwait, Kirkby-in-Ireleth as the owners of the remaining part of the land and I define the said specified part as meaning the part south of the line shown on the 1/2,500 inset Register map which starts from a point on the boundary of the said land between the marks 'CS' and "Foot Bridge", proceeds northeast to the point where two lines cross about 1 inch below the figures "16.124", then turns southeast in a straight line to the southeast boundary of the said land to the point a little to the east of the boundary between plots 273a and 256.



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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 21st _____

day of April _____

1975

a. a. Baden Fuller

Commons Commissioner