



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/449

In the Matter of Grisedale Foot, Garsdale,
Cumbria

DECISION

This reference relates to the question of the ownership of land known as Grisedale Foot, Garsdale, being the land comprised in the Land Section of Register Unit No. CL.512, 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 no person claimed to be the freehold owner of the land in question and no one 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 Kendal on 30 March 1982.

There was no appearance at the hearing, but after the hearing Solicitors for Kestrel Data Services Ltd stated that neither they nor their clients had been aware of the hearing. Since there was no other claimant, I decided to deal with the matter on affidavit evidence.

The whole of the land was conveyed to Kestrel Data Services Ltd by a Conveyance made 5 January 1981 between (1) Christopher William Garnett (2) Kestrel Data Services Ltd. The vendor had a good root of title to the greater part of the land in an indenture made 4 February 1908 between (1) Joseph Henry Wilson (2) Charles Garnett. The land the subject of this indenture was conveyed to Mr C W Garnett by a Conveyance made 1 June 1953 between (1) Elsie Clare Garnett and Croxton Buckley Bingham Smith-Bingham (2) C W Garnett and John Harvey Garnett (3) C W Garnett.

The plan drawn on the 1908^{indenture} showed on the north-west side of the land thereby conveyed a small area marked "Turbery Ground" which is included in the land the subject of the reference. Before he sold the property in 1981 Mr C W Garnett had for in excess of 30 years carried on business as a farmer at the Mossdale and Garsdale Estates in North Yorkshire and Cumbria and had in the course of that business occupied the whole of the land the subject of the reference. During the whole of his ownership and occupation of that land he was in undisturbed possession of the land marked "Turbery Ground" on the 1908 plan and exercised rights of grazing and sporting to the total exclusion of all others.

On this evidence I am satisfied the Kestrel Data Services Ltd is the owner of the land, and I shall accordingly direct the Cumbria County Council, as registration authority, to register that company as the owners of the land under section 2 (2) of the Act of 1965.



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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

28th

day of

July

1982

Chief Commons Commissioner