



In the Matter of Lady Hall Marsh and Lady Hall Hill, Thwaites, Millom, Cumbria

DECISION

This reference relates to the question of the ownership of land known as Lady Hall Marsh and Lady Hall Hill at Thwaites, Millom, being the land comprised in the Land Section of Register Unit Nos. CL.61 and CL.62 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 Carlisle on 6 February 1980. At the hearing the Lady Hall Graziers Association was represented by Mr J E Robinson, its Secretary.

Mr Robinson has done a considerable amount of research into the history of the land comprised in these two Register Units. His conclusion is that there is some evidence to indicate that various persons owned part of the land in the late nineteenth century, but little to show the present owners.

Register Unit No. CL.61 consists of land bounded on the east by the River Duddon, known as Lady Hill Marsh, and Register Unit No. CL.62 consists of an entirely separate area to the west, known as Lady Hall Hill.

Research by the County Archivist in the Earl of Lonsdale's records shows that in 1884-5 the portion of Lady Hall Marsh above high water mark extending for half a mile north of High Shaw Pool (at the railway viaduct) belonged to the trustees of the late Major Rawlinson of Duddon Hall and that the remainder of the Marsh north of this as far as Hatter Dub (about half a mile) was the property of John Dodd and others. Lady Hall Hill was then owned by Broughton and Woodland Churches. The two churches are now united in one benefice and the churchwardens have informed Mr Robinson that the land is not now church property.

Mr Robinson's researches have shed a somewhat different light on the matters. By an indenture made 4 April 1683 between (1) Thomas Marr (2) James Kitchin and Elizabeth Mary his wife (3) John Bellman Carter and Thomas Thompson (4) John Dawson Newton there was conveyed to Mr Newton Lady Hall Farm with an undivided share and right on Lady Hall Marsh and Lady Hall Hill and 56 sheep grasses thereon then in the occupation of Thomas Marr and others. The schedule to this indenture the description is slightly different being "one undivided share and interest of and in Lady Hall Hill... Also of and in Lady Hall Marsh" By an indenture made 12 November 1920 between (1) Tom Newton (2) John James Shepherd Lady Hall Farm was conveyed to Mr Shepherd together with an undivided right on Lady Hall Marsh and Lady Hall Farm and 28 Sheep grasses thereon (it does not



appear what became of the other 28 sheep grasses). These parcels were conveyed to the present owner, Mr Matthew Robinson. on 31 January 1962 Mr J E Robinson submitted that there are three further possibilities based on these documents, namely, (1) That the land in question is owned by those having rights of pasturage over it;

(2) That it is owned by those having land adjoining (based on the unsupported theory that when the land was enclosed the land to the seaward of high water mark of the spring tides was left, thereby creating the common); and

(3) That the land is owned in undivided shares, one moiety being part of Lady Hall Farm (now known as Newton Farm) belonging to Mr Matthew Robinson and the rest belonging to some unspecified persons.

In my view the documents afford no reliable evidence as to the ownership of the land in question. The expression "an undivided right on Lady Hall Marsh and Lady Hall Hill" does not unequivocally indicate that what was being conveyed was an undivided share of the freehold interest. However, even if it does, one cannot assume that Mr Matthew Robinson shares the undivided freehold with one other person. If he did, he and that other would be entitled to be registered as the owners, but if there were more than four of them the land would be vested in the Public Trust under the transitional provisions of the Law of Property Act 1925.

After all the trouble which Mr J E Robinson has taken to help me. I am sorry to have to say that I am not satisfied that any person is the owner of the land 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

22nd

day of

February

1980


Chief Commons Commissioner