



In the Matter of land known as Knorren
Fell, Walton

DECISION

This reference relates to the question of the ownership of the land comprised in the Land Section of Register Unit No. CL.28 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 W.G. Kyle and Miss D. Harding claimed to be the freehold owners of parts 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 Carlisle on 22 July 1986 and visited part of the land on 24 July 1986.

At the hearing Mr W.G. Kyle was represented by Mr A. H. B. Holmes, Solicitor of Messrs. Cartmell, Mawson and Main of Brampton, Miss Dorothy Harding was represented, by leave, by Miss V. Rosser articled clerk to Messrs. Bendle, Sibson and Davidson of Carlisle, The Walton Parish Council were represented by Mr I.S. Walker, their chairman, and the Registration Authority by Mr T. Greer.

The unit land consists of three areas joined together by lanes which form part of the unit. Both the present claims relate to parts of the northernmost area.

Mr Kyle's Claim

William Goodfellow Kyle claims ownership of two separate pieces of land. They are shown hatched diagonally on the plan attached to this decision. In support of his title to the easternmost piece Mr Holmes produced a conveyance dated 18 July 1960 from William Bond (1) to Isaac William Foster (2) and a conveyance dated 20 January 1972 from Isaac William Foster to William Goodfellow Kyle. With regard to the westernmost plot he produced a conveyance dated 15 June 1934 between William Linton, John Forster and William Forster(1) and Tomasina Forster (2) and a conveyance dated 4 February 1973 between Tomasina Forster (1) and William Goodfellow Kyle (2). On that evidence I am satisfied that William Goodfellow Kyle is the owner of the hatched land.



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Miss Harding's Claim

Miss Dorothy Harding and her sister Marion claim ownership of a piece of land which is cross-hatched on the plan attached hereto. In support of her claim Miss Rosser produced an indenture dated 27 August 1920 whereby Guy Whinyates conveyed certain land to Robert Harding in fee simple. Part of the land conveyed was Holme House Farm containing about 55a. 3r. 15p. which I shall call "the red land". She also produced letters of administration of the estate of the said Robert Harding granted to Nicholas Harding and Thomas Harding on 8 February 1946 and an assent by them dated 27 September 1947 vesting the red land in Margaret Harding in fee simple, a probate of the will of Margaret Harding granted on 24 April 1956 to Dorothy Harding and an assent dated 31 December 1957 whereby Dorothy Harding vested the red land in herself and her sister Marion Harding and Mary Harding jointly in fee simple. Mary Harding died this year.

So far so good but, as Miss Rosser very properly pointed out, while the plan of the red land on the 1920 indenture clearly includes the whole of the land now claimed, that plan is "for the purposes of further identification only" and that accordingly the question of what was conveyed is governed by the schedules rather than by the plan.

Now according to the 1926 edition of the Ordnance Survey which forms the basis of the claim plan (the register plan is on a very much smaller scale) the land claimed by Miss Harding consists of O.S. 374 .376 acres, OS 375a 1.194 acres and O.S. 375 1.508 acres, a total of 3.078 acres. On the schedule, however, (which since it was drawn up in 1920, must have referred to an earlier edition of the Ordnance Survey Map) we find O.S. 374 .310 acres and part 375 1.934 acres a total of 2.244 acres. This appears to leave unaccounted for an area of woodland lying to the south of a stream which is shown in the plan as part of the red land.

Miss Harding, however, gave evidence that this land was included in the land occupied by her sister and herself and by their father and mother before them. When I visited the land it was apparent that the land to the south of the river was and had for a long time been fenced in with the rest of the red land and I am quite satisfied that Dorothy and Marion Harding are the joint owners in fee simple of the whole of the red land. That part of the unit land is cross-hatched on the plan attached to this decision.



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I shall accordingly direct the Cumbria County Council, as registration authority to register under section 8 (2) of the Act of 1965 William Goodfellow Kyle as the owner of the land hatched and Dorothy and Marion Harding as the joint owners of the land cross-hatched on the plan attached hereto.

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 31st day of July 1986

Peter Lamdan-Davis

Chief Commons Commissioner

