



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/596

In the Matter of land known as Tenants Meadow, Broughton West

DECISION

This reference relates to the question of the ownership of land known as dale 11, Tenants Meadow, Broughton West being the part of the land comprised in the Land Section of Register Unit No. CL.243 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 Christopher Joseph Wood claimed to be the freehold owner of the land in question and Thomas Butler & Son, Solicitors acting for Mrs Mary Knowles 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 27th November 1990.

The hearing was attended by Mrs Fiona Harrison of Cumbria County Council (the registration authority) and Mr David Thompson of Kendall Fisher, Solicitors of Ulverston representing Mr Christopher Joseph Wood.

The land was registered as common land consequent upon a rights application. There are five entries in the Rights section of the Register relating to the grazing of cattle and horses, all of which have become final.

There are four entries in the Ownership section, all of which became final following a hearing before Chief Commons Commissioner George Squibb on 30th March 1982. Those entries relate to the parts of the Register Unit described as dales 2, 3, 5, 6, 7, 9 and 10.

It appears from the papers which were before Mr Squibb that there were 11 dales in all, but that three of these, Nos. 1, 4, and 8, were comprised in a different Register Unit, CL.244. This leaves outstanding dale 11, to which my present inquiry relates.

It also appears that at the inquiry before Mr Squibb dale 11 (as well as dales 6 and 10) were claimed by Mrs Mary Knowles. In his Decision dated 7th April 1982, however, Mr Squibb makes no mention of dale 11. This seems to have been an oversight, and when Kendall Fisher first wrote to the Commons Commissioners in November 1990 they suggested that the omission might be corrected without a further hearing.

The title deeds of Mrs Knowles in respect of Dale 11 were the same as those in respect of dales 6 and 10. When in his Decision Mr Squibb said that he was satisfied that Mrs Knowles was the owner of dales 6 and 10 but omitted to mention dale 11, a possible inference is that he was not satisfied that she was also the owner of dale 11, although if this had been the case one would have expected him to say so. Mr Squibb having long since retired, a further inquiry was clearly necessary.



Dale 11 is O.S.No. 5042 on the current Ordnance Survey Map and was O.S.No. 814 on the previous edition - in each case having an area of 1.02 acres. Notwithstanding that Mrs Knowles was not registered as owner in the ownership section of the Register she sold and conveyed this piece of land to Edna Wood by a Conveyance dated 21st April 1988. Edna Wood died on 30th July 1989 and Probate of her Will was granted to National Westminster Bank on 10th October 1989. A draft Assent by the Bank in favour of Christopher Joseph Wood in respect of this piece of land was before me at the hearing, and Kendall Fisher have since notified the Clerk to the Commons Commissioners that this Assent was completed on and dated 4th December 1990.

The question remains whether Mrs Knowles had a good title to dale 11. The documents before me (and also before Mr Squibb) were as follows:-

- 28.3.1906 Indenture (1) Agnes Gawith, Margaret Gawith and Wilson Butler
(2) Richard Fell and Thomas Sim Fell
- 29.6.1966 Letters of Administration of James Fell
- 9.9.1970 Assent (1) Ann Huddleston Fell Elizabeth Margaret Clark
(2) Mary Knowles

The Indenture of 1906 was in respect of Croglinhurst Farm and comprised numerous parcels by various complex descriptions. There are three references to land in Tenants Meadow. I do not know how or on what evidence Mr Squibb concluded that these references comprised or included dales 6 and 10.

There was also before me a Statutory Declaration made by Mrs Knowles on 15th April 1988, that is to say shortly before the sale by her of dale 11 to the late Mrs Wood. Mrs Knowles declared (inter alia) as follows:-

- (i) She was 55 years of age and had lived at Croglinhurst Farm all her life
(ii) O.S. No.814 (i.e. dale 11) was described in the earlier title deeds of Croglinhurst Farm as

"undivided part of Chester Myre in Tenants Meadow Dale at the low or south-east corner of Tenants Meadow in the part thereof called Chester Myre"

- (iii) "during my lifetime no-one other than the owners or tenants for the time being of Croglinhurst Farm has until 1986 exercised any rights in respect of the said field O.S.No.814. Access to the field used to be across the River Lickle from Tenants Meadow on the westerly side of the river. However, in or about 1946 the Water Board dredged the river and since then it has not been possible to get across the river with a horse and cart or with motor vehicles. Consequently, the land stood vacant from then until 1986 when Mr David Troughton, who is the tenant of the adjoining field number 812, pulled out part of the easterly fence to join the field to the rest of the land belonging to Middle Bleansley which he rents"



Mrs Knowles' description of O S No. 814 taken from the earlier deeds confuses the matter still further. It does not correspond precisely with any of the descriptions of land in Tenants Meadow contained in the 1906 Indenture. In addition it relates only to an undivided share in the land, and not to the entire freehold interest.

Although Mrs Knowles' Declaration is therefore not wholly satisfactory and the identification of dale 11 in the Indenture of 1906 remains obscure, she does state that for over 50 years down to 1986 no-one other than the owners or tenants of Croglinhurst Farm exercised any rights over O.S. No. 814; and that from 1986 onwards it was joined onto the adjoining field O.S. NO. 812. I was told that this field belonged to the Wood family, which was why Mrs Wood bought O.S. No. 814 (dale 11) in 1988.

Some confirmation of the present claim is to be found in the Rights Section of the Register. Entry No.4 in the Rights Section which was made on the application dated the 19th December 1969 of Ann H Fell of Croglinhurst is in respect of grazing rights over the whole of the Register Unit other than dales 10, 6 and 11, and in column 4 of the Register the rights are stated to be attached to those dales, Mrs Fell being shown in column 5 to have applied in the capacity of the owner.

None of the Rights holders appeared before me to object to Mr Wood's claim, and no-one else sought to oppose it.

On this evidence I am satisfied that Christopher Joseph Wood is the owner of the land, and I shall accordingly direct the Cumbria County Council, as registration authority, to register him as the owner of the land under section 8(2) 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

29th

day of

January

1991

Mati Rott

Commons Commissioner