



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/348

In the Matter of Little Bampton
Pasture, Kirkbampton, Allerdale
District, Cumbria

DECISION

This reference relates to the question of the ownership of land known as Little Bampton Pasture, Kirkbampton, Allerdale District being the land comprised in the Land Section of Register Unit No. CL406 in the Register of Common Land maintained by the Cumbria (formerly Cumberland) 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 John Bell Irving and Mrs Hannah Louisa Irving of Angerton Farm, Kirkbridge claimed (letter of 26 November 1980) that the freehold of the land in question should be vested in them. No other person claimed to be the freehold owner of the land 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 Keswick on 29 April 1981. At the hearing Mr and Mrs Irving (neither was present at the hearing) were represented by their son Mr R B Irving.

The land ("the Unit Land") is a tract between 200 and 250 yards long and having an average width of about 150 yards. The Land Section registration was made upon an application dated 30 January 1968 and made by Kirkbampton Parish Council. The Rights Section registration (there is only one) was made upon an application dated 12 December 1969 and made by Mr and Mrs Irving; it is of a right attached to the Limes and Brownrigg Farms to graze 30 cattle or their equivalent stock.

Mr R B Irving who is 40 years old, in the course of his evidence said (in effect):- His maternal grandfather who died in 1919 owned 3 farms in Little Bampton and several cottages for farm workers. Two of these farms were sold and all rights over the Unit Land were "Kept back". In 1936 his parents married, and since his father has been actively involved at Little Bampton; they have purchased other farms there, and they currently own the Limes and Brownrigg; they purchased Brownrigg in 1962. In all they now own about 200 acres around the Unit Land. None of the Unit Land is "on" their deeds. Their land adjoins the north, the east and the southwest side of the Unit Land. The other land adjoining the Unit Land belongs to Mr Cartner who has made no claim to ownership. The Unit Land is very rough land with heather and scrub growing on it and some fir trees; there is moss or grass land at the south end, and this at times is wet. The Unit Land is improvable. Access to the Unit Land from a public road is at its northwest corner by a road from Studholme; near the Unit Land this road is overgrown. His parents have looked after the Unit Land without any dispute from the local community.

Mr Irving said that if his parents established ownership, they (and he) could improve it. Under section 8 of the 1965 Act, I am required to say whether I am "satisfied" as to ownership. I have no jurisdiction to award ownership to a person merely because it is expedient for agricultural or other reasons.



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Mr Irving contended that his parents became owners by acquiring all the rights of common over the Unit Land and by being in possession. Because such contention is based on their ownership of adjoining land, I could not find in their favour without either seeing or having much more information than I now have about their title deeds and their adjoining land. This is reason enough for my not being now satisfied as to ownership.

However I would not reject Mr Irving's contention altogether merely because his parents' title deeds were not produced at the hearing (if likely to be advantageous to them I would adjourn the proceedings to enable deeds to be produced). Accordingly I shall hereinafter assume (as is likely) that Mr Irving's evidence about his parents' deeds includes all that could be relevant.

Even on this assumption I reject his contention that a person who acquires all the grazing rights exercisable over a common thereby becomes owner of the common.

As to his parents having acquired a possessory title, because they have taken trees off it, shot over it and looked after it without help from the local authorities (about this I have a letter dated 1 May 1981 from Mr R B Irving):- In considering this claim I must have regard to the circumstance that the Unit Land has been finally registered as Common Land under the 1965 Act and I must therefore treat it as land distinct ^{to} when it is surrounding farm land; or disregard ^{the} circumstance that Mr and Mrs Irving without objecting to this registration have themselves procured the registration of a grazing right over it. Looking after the land which could be attributable to their right of grazing could not in my view be adverse to the true owner so as to confer Mr and Mrs Irving absolute ownership in addition to (or in place of) their right of grazing. I am not persuaded that their taking wood off the land and shooting over it was to such an extent that I could properly conclude that the true owner not merely held the land subject to a right of grazing but was altogether dispossessed.

For the above reasons I am not satisfied that Mr and Mrs Irving are the owners of the Unit Land. In the absence of any evidence anyone else could be the owner, 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 24th — day of August — 1981

a. a. Baden Fuller

Commons Commissioner

