



In the Matter of the Land known as Scawdale
Fell and Cat Bells, Above Derwent

DECISION

This dispute relates to the registrations at Entry No. 1 in the Land Section at Entries Nos. 1-21 in the Rights Section and at Entry Nos. 1-3 in the Ownership Section of Register Unit No. CL 255 in the Register of Common Land maintained by the Cumbria County Council and is occasioned by Objection No. 194 made by the National Trust and noted in the Register on 4 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Keswick on 6 October 1981. The hearing was attended by Mr Nobbs of Oglethorpe and Hough, Solicitors of Keswick appearing for Mr W A Layland. Mr Devlin for the National Trust, Mr Barnes for Mrs A Barnes, and Mr Parrant for Viscount Rochdale.

Mr Devlin withdrew his client's objection to the Register in the Land and Rights Section and informed me that the National Trust had acquired the interests of the other two applicants in the Ownership register, and produced documents of title which satisfy me that this was so.

Before my decision was issued I received an application from Mr Layland asking for the hearing to be reopened to enable him to argue that the stinholders owned the freehold of the Register Unit in undivided shares, and, if so, whether the land so owned was common land for the purposes of the Act of 1965. As neither the National Trust nor the Registration Officer opposed this request I agreed to reopen the hearing and for that purpose held a further hearing at Keswick on 6 June 1984.

The interest of Mr Layland and his wife is now vested in their two sons Messrs J R and A T Layland who were represented by Mr D Mellor of Little and Shepherd, Solicitors of Penrith. Mr G Hall, Land Agent, appeared for the National Trust and Mr T W Gear for the Registration Authority, Miss B W Walker who supported the case put forward by Mr Layland, appeared in person.

Mr Bruce Copley Jones, County Archivist for Cumbria, said that at some time before 1968 he was asked to provide some information about the Manor of Borrowdale and he had found a series of deeds dated 1614 showing sales by the Crown of individual holdings within the Manor of Borrowdale. By a Deed dated 28 November 1614 the Crown sold to 37 tenants the Crown's interest as owner of the Manor in the respective reversions to their tenancies.

Mr Mellor had at least two problems. His clients had lodged no objections and the claim put forward by his client only arose in the case of land formerly within the Manor of Borrowdale. It also seemed probable that when the Law of Property 1925 came into force the legal estate in any land held in undivided shares would have vested in the Public Trustee, who, until removed from his position of trustee, would be the owner of the land for the purposes of the Act.

Ownership of the land outside the Manor of Borrowdale had originally been claimed by Lord Egremont at Entry No. 1 and the benefit of that claim had passed to the National Trust.



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As Mr Hall indicated that he intended to withdraw his objection it was agreed that I should confirm the registrations at Entry No. 1 in the Land and Ownership Sections and Entry Nos. 1-21 in the Rights Section and declare myself not satisfied that any person was the owner of that part of the land which lay East of the line G3H3 within the manor of Borrowdale.

For these reasons I confirm the Registrations at Entry No. 1 in the Land and Ownership Sections and at Entry Nos. 1-21 in the Rights Section and I refuse to confirm the registrations at Entry Nos. 2 and 3 in the Ownership Section.

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

25th

day of

June

1984

Lang Herkett

Commons Commissioner