



COMMONS REGISTRATION ACT 1965

Reference No. 262/U/283

In the Matter of Tirril Green, Sockbridge  
and Tirril, Cumbria

DECISION

This reference relates to the question of the ownership of land known as Tirril Green, Sockbridge and Tirril, being the land comprised in the Land Section of Register Unit No. VG.49 in the Register of Town or Village Greens 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 the Earl of Lonsdale and his Settled Land Act Trustees and the Sockbridge and the Tirril Parish Council claimed to be the freehold owners 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 Penrith on 24 April 1980. At the hearing Lord Lonsdale was represented by Mr Fryer Spedding, of Counsel, and the Sockbridge and Tirril Parish Council by Mr W G Barnes, its Clerk.

The land the subject of the reference is Waste Land in the technical sense of the term and is situate within the manor of Sockbridge, the lordship of which was vested in Lord Lonsdale by a Principal Vesting deed made 27 January 1961 between (1) John Lamplugh Wickham and Adam Granville Gordon (commonly called Lord Adam Gordon) (2) James Hugh William, Earl of Lonsdale (3) Hon. Arthur James Berosford Lowther.

Mr Barnes claimed that the Parish Council had acquired a title to the land by adverse possession. It appears from the minutes of the Parish Council that on 24 March 1925 the Council made arrangements for the maintenance of the land and on 20 July 1955 trees were planted and a seat placed on the land in memory of the Coronation. In 1959 and 1960 the Council built a low ornamental wall round two sides of the land.

Mr Fryer Spedding argued that these acts on the part of the Parish Council did not constitute a taking of possession adverse to Lord Lonsdale or his predecessors in title, and that what was done by the Parish Council was with the implied licence of Lord Lonsdale and his predecessors in title as Lords of the Manor.

This case differs from many under section 8 of the Act of 1965 in which it has been held that the planting of trees and the placing of seats by a parish council has constituted a taking possession of land, because here there is a known owner who is alleged to have been dispossessed. The rule to be applied in such a case was stated by Lindley M.R. in Littledale v Liverpool College, (1900) 1 Ch.19,21 in the following terms:-

"In order to acquire by the Statute of Limitations a title to land which has a known owner, the owner must have lost his right to the land either by being dispossessed of it or by having discontinued his possession of it....."



In considering the application of what Lindley M R said to this case, it has to be borne in mind that the land in question is a small triangle of open land bounded on all three sides by roads and that its registration as a town or village green is by virtue of Section 10 of the Act of 1965 conclusive evidence that the land falls within the definition of "Town or Village Green" in Section 22 (1) of the Act. Therefore, being subject to the recreational rights of the inhabitants of the locality, there is little or no beneficial use to be made of the land by its owner. In these circumstances it seems impossible to construe the non-use of the land by the owners as a discontinuance of their possession of it. This leaves for consideration whether the owners have been dispossessed by the Parish Council.

In considering whether the owner of land has been dispossessed regard must be had to the nature of the property and whether the acts relied upon as being dispossession interfered with or were inconsistent with the purpose to which the owner intended to devote it: see Williams Brothers Direct Supply Ltd v Raftery, (1953) 1 Q.B.159. The owners in this case had no option but to continue to devote the land to recreational use by the inhabitants of the locality. The acts relied on by the Parish Council were intended to enhance the value of the land for that purpose and so cannot, in my view, properly be regarded as a dispossession of the owners. For the owners to have complained of these acts would have been churlish and would, no doubt, have been so regarded by the Parish Council.

For these reasons I am satisfied that Lord Lonsdale 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

5<sup>th</sup>

day of

June

1980

Chief Commons Commissioner