



COMMONS REGISTRATION ACT 1965

Reference No. 208/U/43

In the Matter of The Watering Hole, The Pinfold
and the Pingle, Wardlow, West Derbyshire D.

DECISION

This reference relates to the question of the ownership of land known as The Watering Hole, The Pinfold and the Pingle Wardlow West Derbyshire D. being the land comprised in the Land Section of Register Unit No. CL.74 in the Register of Common Land maintained by the Derbyshire 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 Wardlow Parish Council claimed to be the freehold owner of the land in question and Mr P Higginson claimed to be the owner of the Pinfold 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 Matlock on 14 November 1979.

Mr C J H Linfoot of Messrs. Morton Slack and Co appeared for Mr Higginson and Mr D Furness clerk to the Wardlow Parish Meeting appeared for the Parish.

It was not disputed that the Pinfold is walled in and is now enjoyed by Mr Higginson as part of the garden of this property "Robin Hay" and it was so enjoyed by previous owners. Mr Furness however, stated that previous owners paid rent of 2/6 per annum to the Parish for the use of the Pinfold. The immediate predecessor in title to Mr Higginson were Mr and Mrs Redshaw and Mr Menaged did not, so I was told, occupy "Robin Hay" and during the period of their ownership the Pinfold was allowed to go to waste and according to Mr Furness it was to some extent used for the dumping of rubbish. I gave Mr Furness the opportunity to prove that the Parish was in receipt of the rents and profits of the Pinfold and on 15 November he produced the annual Financial Statement of the Parish Meeting for 1958 which included an item "Rent of Parish Property 5/-" which he said was for the Pinfold and another statement for the year 1963 which included the item "Robinsons rent of Pinfold 7/6- 3 years". Mr Menaged made a statutory declaration dated 15 January 1976 that during the period of his ownership of "Robin Hay", enjoyment of the Pinfold with that property has taken place, but he did not give any details as to the nature of his occupation.

I have a great deal of sympathy for Mr Higginson- Mr Furness told me that the Pinfold was of no use to the Parish and he accepted that it was preferable that it should be maintained as part of Mr Higginsons garden, rather than be exposed to the risk of again being used as a rubbish dump and while he could not speak for the Parish Meeting he thought that if the Parish does own the Pinfold, the best course would be for the Parish either to sell or lease it to Mr Higginson.

I have however no alternative but to deal with the matter on the evidence available to me. In my view in 1974 Mr Menaged would have had no answer to a claim to ownership by the Parish and I am not satisfied that during the year 1974 to 1976 he occupied the Pinfold for the purpose of establishing a title by adverse possession. For these reasons I am satisfied that the Parish owns the Pinfold.



-2-

I have come to this conclusion with great reluctance and if evidence can be obtained from Mr Menaged that he occupied the Pinfold and if the Parish will not contest that evidence, possibly as part of a compromise, I am prepared to re-open the hearing.

The Parish has no evidence as to the ownership of the Watering Hole and the Pingle and these two parcels of land will be subject to protection under section 9 of the Act of 1965.

Unless I am asked to re-open the hearing, I will direct the Derbyshire County Council to register the Wardlow Parish Trustees as the owners of the Pinfold 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 26 day of November 1979

Commons Commissioner