



COMMONS REGISTRATION ACT 1965

Reference No. 209/U/124

In the Matter of parts of Okehampton Common, Okehampton Hamlets

DECISION

This reference relates to the question of the ownership of part of Okehampton Common being the part of the land comprised in the Land Section of Register Unit No. CL.155 in the Register of Common Land maintained by Devon 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 no person claimed to be the freehold owner of the land in question.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Exeter on 26th July 1995.

The hearing was attended by Mr G E S Parker Property Services Manager of the Duchy of Cornwall.

This matter has a prolonged history. By my Decision of 11th April 1994 I removed several pieces of land from this Register Unit to resolve the conflict which existed between Rights Entry No.65 and Entry No.1 in the Land Section.

Previously at a hearing on 23rd January 1990 I had been unable to inquire into the ownership of the land owing to the existence of the conflict between the entries in the Rights and Land Sections.

Mr Parker produced to me an Enrolment Volume of the Duchy of Cornwall containing original counterparts of Conveyances to and from the Duchy.

He referred me to a Deed at pages 192 to 196 being an Arrangement dated 21st December 1866 between Albert Edward Prince of Wales and the Rev. John Luxmoore. This recites that questions had arisen between the Prince as Lord of the Manor of Lydford and John Luxmoore as Lord of the Manor or reputed Manors of Halstock and Meldon concerning the boundary between the common land of Lydford and the lands of John Luxmoore claimed by him to be within the Manor or reputed Manors of Halstock and Meldon. By that deed the line of the boundary between the two was agreed.

In the Ownership Section of the Register there are 3 entries, namely The Prince of Wales, E.C.C. Quarries Ltd and the Public Trustee (for the Trustees of the Miss Marion Luxmoore Settlement), in respect of separate parts of the common. The strip of unclaimed land to which the present inquiry relates adjoins the part of the common in respect of which the Prince of Wales is registered as owner, but is some distance from the part of the common in respect of which The Public Trustee is registered as owner.

Mr Parker told me that on the plan to the 1866 Arrangement the strip of unclaimed land fell on the Luxmoore side of the agreed line of the boundary. He said that nevertheless today this strip of land remains unenclosed, and runs together with the rest of the Duchy land.



The Public Trustee has long since distributed the Luxmoore Estate, and can give no information as to the persons deriving title under it. Having regard to the extended history of this matter which has been advertised locally on several occasions, the persons claiming as successors to the Luxmoore estate should have had several opportunities to claim ownership of the land had they thought fit. Mr Parker on behalf of the Duchy was the only person to show any interest in the matter, and invited me (notwithstanding the terms of the 1866 deed) to register the Duchy as owner of it. It seems to me undesirable to leave the matter in limbo.

For this reason, on this evidence and in the absence of any other claims I am satisfied that His Royal Highness Charles Prince of Wales Duke of Cornwall is the owner of the land and I shall accordingly direct the Devon County Council, as registration authority, to register His Royal Highness 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

14th

day of

August

1995

Martin Rott

Chief Commons Commissioner