



COMMONS REGISTRATION ACT 1965

Reference No. 209/U/128

In the Matter of 2 pieces of land at Haldon Moors Bishopsteignton,
Teignbridge

DECISION

This reference relates to the question of the ownership of 2 parts of the land comprised in the Land Section of Register Unit No. CL.221 in the Register of Common Land maintained by the Devon County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Exeter on 22 April 1994.

At the hearing Mr M J Hender, of Messrs. Tozers, Solicitors, Dawlish appeared for Hoare Trustees of 37 Fleet Street, London, EC4 4DQ who claim ownership of the northern piece of land comprised in the reference, and Mr G Penn-Barrow, Land Agent, appeared for Mrs Magdalen Sleeman of Braishfield House, Braishfield, Romsey who claims ownership of the southern piece of land so comprised.

As regards the northern piece of land, Mr Hender produced an Agreement under seal dated 7 September 1933 (sic) under which Peter A Marsham Hoare agreed to sell the land together with other land to Luscombe Estate Company Limited in exchange for an allotment of shares in the said Company; and the Probate of the said P A M Hoare who died on 2 December 1939 and Probate of whose will was granted to Hoare Trustees on 29 February 1940. The Luscombe Estate Company was wound up in 1964 and by an Assignment dated 6 December 1964 its assets (i.e. the benefit of the said Agreement dated 7 September 1933) were assigned to Mr D J Hoare. Mr Hender told me that the said Agreement was still in existence and that sales of land comprised therein were made by Hoare Trustees as personal representatives of the said D A M Hoare at the direction of Mr D J Hoare.

On this evidence I am satisfied that Hoare Trustees are the owners of that land and I shall accordingly direct Devon County Council to register Hoare Trustees as the owner of the northern piece of land included in this reference.

As regards the southern piece of such land, Mr Penn-Barrow produced a Conveyance on Sale dated 13th March 1964 by which Economic Forestry Ltd conveyed the land with other land to Mrs Magdalen Sleeman. Mr Penn-Barrow also produced a conveyance dated 15th January 1968 by which Mrs Sleeman conveyed the majority of the land contained in the said conveyance dated 13th March 1964 to Trustees, and demonstrated that the land the subject of this reference was excluded from the said conveyance to Trustees and therefore remained in the ownership of Mrs Sleeman.

A previous Commons Commissioner's inquiry under reference 209/U/95 took place in February 1985 (of which Mrs Sleeman did not have notice): but it resulted in a finding that title to the land had not been established, so that finding is no obstacle to the present recognition of Mrs Sleeman's title to the land. On the evidence now before me I am satisfied that Mrs Sleeman is the owner of the land and I accordingly propose to direct the Devon County Council to register Mrs Magdalen Sleeman as the owner of the southern piece of land comprised in this reference.



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

22nd

day of

April

1994

Mr Justice

Commons Commissioner