



COMMONS REGISTRATION ACT 1965

Reference No.11/U/24

In the Matter of the Quarry, Witton-le-Wear,
Wear Valley D., Durham

DECISION

This reference relates to the question of the ownership of land known as the Quarry, Witton-le-Wear, Wear Valley District (formerly Crook and Willington Urban District) being the land comprised in the Land Section of Register Unit No.CL.2 in the Register of Common Land maintained by the Durham 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 Mrs. E. Wilson wrote to the Clerk of the Commons Commissioners in effect making claims which were as recorded later in this decision repeated at the hearing. No other person claimed to be the freehold owner of the land in question or 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 Durham on 30 April 1974. At the hearing (1) Mrs. E. Wilson was represented by Mr. D. J. Elleanor solicitor of Meikle Skene and Hall Solicitors of Spennymoor, (2) Mr. C. H. Lough appeared in person, and (3) Wear Valley District Council were represented by Mrs. J. Robson, solicitor and head of their legal service.

Mr. Elleanor said (in effect):- The land comprised in this Register Unit, which contains (according to the Register) 5.92 acres, consists of three pieces:- (1) the South Piece, a strip (having a frontage of about 380 yards to the A68 main road from Darlington to Corbridge), being O.S. Nos.126 and 129 (containing according to the O.S., 2.358 acres) known as Witton Common Quarry; (2) the Middle Piece, the southwest part of the access road to Chapman Hill Farm and some land south of such part, being O.S. No.124 (containing according to the O.S., .745 acres) known as Well Bank; and (3) the North Piece roughly semicircular, being O.S. No.44 (containing according to the O.S., 2.963 acres) known as Witton Quarry. The Middle Piece (2) and the North Piece (3) should not have been registered; both these Pieces are now in the joint ownership of Mr. Lough and Mrs. Wilson. He produced a copy of part of the Witton Inclosure Award and of part of the Award map which showed that the South Piece (or a little less) had been allotted as a common quarry and that the North Piece and the Middle Piece (with other land) had been allotted to C. J. Douglas Esq..

The registration was made pursuant to an application made on 14 February 1967 on behalf of the Crook and Willington Urban District Council; being undisputed, it became final on 1 October 1970. Mrs. Robson said that her Council conceded that the registration mistakenly included the North Piece and the Middle Piece.

Mrs. Wilson and Mr. Lough both gave evidence; after an adjournment, the documents below mentioned were produced by Mr. L. Pattinson, solicitor of Geo. W. Hodgson and Angus Solicitors of Stanhope (his firm held the documents for Mr. Lough and Mrs. Wilson jointly



Mrs. Wilson said (in effect):- The Middle Piece is part of Chapman Hill Farm which her grandfather Mr. C. B. Teasdale and her mother Mrs. M. Lough purchased in 1930. He died in 1931, and Mrs. Lough then became solely entitled. In 1936 the North Piece was conveyed to her mother Mrs. Lough. She died on 6 September 1968, and under his will Chapman Hill Farm House passed to her Mrs. Wilson, and Chapman Hill Farm, including the Middle Piece and the North Piece passed to her brother Mr. Lough and herself Mrs. Wilson equally.

Mrs. Wilson also gave evidence intended to show (so I understood from Mr. Eleanor) that the registration was as regards the Middle Piece and the North Piece, (a) originally a mistake in that Mr. Weddle the then clerk of the Council must have thought that the Council was applying for the registration of Witton Common Quarry (the South Piece) and not of Witton Quarry (the North Piece); and (b) was wrongly treated as undisputed in that the public and possibly other notices which were or should have been given of the registration were irregular or not given, so that Mrs. Lough and those claiming under her never knew within the time allowed for objections, of the existence of any registration of the Middle Piece and of the North Piece.

In my opinion I have neither on this reference nor on any other reference which can now ever be made to me, any jurisdiction to avoid the registration for mistake or to extend the time for objecting to it on the ground of irregularity; I decline therefore to express any view as to the evidence given by Mrs. Wilson in the matters mentioned in the preceding paragraph. The position in this case is I think essentially the same as that considered in my decisions dated 16 October 1972, re River Bank Ropewalk, reference 6/U/22 and dated 9 February 1973, re Three Corner Piece, reference 38/U/55, and I adhere to the view I then expressed.

As to ownership of the Middle Piece and of the North Piece, the documents of title produced commencing with conveyances dated 8 July 1930 and 11 August 1936 and ending with an assent dated 5 February 1972, accord with the oral evidence of Mrs. Wilson. She said (and Mr. Lough confirmed her evidence generally) that Mrs. M. Lough had occupied the Middle Piece with Chapman Hill Farm, and had, when the County Council a few years ago made the A68 Witton-le-Wear bypass, permitted them to deposit soil and rubble on the North Piece.

On the evidence outlined above, I am satisfied that Mr. Lough and Mrs. Wilson are the owners of the Middle Piece and the North Piece, and I shall accordingly direct the Durham County Council as registration authority, to register Mr. Charles Henry Lough of Kilkeran, Witton-le-Wear, Bishop Auckland, Durham and Mrs. Elizabeth Wilson of Chapman Hill Farm House, Witton-le-Wear aforesaid, as the owners of the part of the land comprised in this Register Unit which is north of the line which on the Register map separates O.S. no.126 area 1.055 acres from O.S. No.124 area .745 acres under section 8(2) of the Act of 1965.

As to the South Piece, Mrs. Robson said that a scheme for its regulation and management had been made under the Commons Act 1899, and that although her Council are concerned that the registration under the 1965 Act shall stand, they could offer no evidence of ownership.



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In the absence of any evidence I am not satisfied that any person is the owner of the South Piece and it will therefore be subject to protection under section 9 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

13

day of

May

1974.

a. a. Baden Fuller

Commons Commissioner