



COMMONS REGISTRATION ACT 1965

Reference No. 272/D/1600-  
1623

In the Matters of the tract of land containing approximately a total area of 16.9 acres situated in the Parish of Cwmrheidol  
The tract of land containing approximately 104 acres known as Bryn Bras, Cwmrheidol  
Tract of land at Mynydd-Ffynnon-Wen  
Part of Bryn Bras and Hen Riw, Cwmrheidol  
The tract of land of about 303 acres known as Hen Rhiw Bryn Rhosau and Banc- Bwa-Drain Cwmrheidol

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#### DECISION

This dispute relates to the registration at Entries No.4 of the Land Section No.2 of the Rights Section and No.3 of the Ownership Section of Register Unit No.CL.153 in the Register of Common Land maintained by the Dyfed County Council and is occasioned by the conflicting registrations at Entries Nos 6,5,22 and 18 in the respective rights sections of Register Units Nos. CL.62, CL.83, CL.42 and CL.76 in the Register of Common Land maintained by the Council.

I held a hearing for the purpose of inquiring into the dispute at Aberystwyth on 11 October 1994. The hearing was attended by Mr Dennis Evans of Messrs. Morris & Bates, Solicitors, on behalf of Mrs Pamela May Williams (owner of Pant y Rhedyn and Pant y Gorlan, Ystumtuen) and on behalf of Mrs Catherine Bronwen Jenkins (owner of Ty-gwyn Ystumtuen), Mr E T Jenkins (son of Mrs C B Jenkins) and Mr David Paul James and others. Mr W Lewis represented Dyfed County Council the Registration Authority.

Pant y Gorlan (6.441 acres) and Pant y Rhedyn (3.790 acres) are both now in the ownership of Mrs P M Williams. They lie to the north of Ystumtuen, Cwmrheidol; further to the north lies a tract of common land divided into four registered commons CL.62, CL.83, CL.42 and CL.76 (to which I shall refer as "the Commons"). A predecessor in title of Mrs P M Williams registered rights of common on behalf of Pant y Gorlan and Pant y Rhedyn over the Commons, being rights of common of pasture for 30 sheep, 6 cattle and 6 pigs and a right to cut peat: these rights constitute Entry No. 4 in the Rights Section of CL.62 (Bryn Bras and Hen Riw), Entry No. 5 in the Rights Section of CL.83 (Bryn Bras), Entry No. 22 in the Rights Section of CL.42 (Hen Riw Bryn Rhosau and Banc-Bwa-Drain) and Entry No. 18 in the Rights Section of CL.76 (Mynydd Ffynnon - Wen). The rights also affect CL.128 but no reference in respect of that unit is before me.

Conflict arises because part of Pant y Gorlan (some 5 acres) and a small part of Pant y Rhedyn are themselves registered as common land under CL.153. This registration arose from a provisional registration on 29 December 1969 by Joseph Jones of rights of common of pasture for 200 ewes and lambs over CL.153, CL.42 and CL.128.

CL.153 contains 16.9 acres. The eastern section consists of a field belonging to Pant y Gorlan and a small tongue of land between Pant y Gorlan and Pant y Rhedyn. The middle section consists of a field forming part of Ty-gwyn owned by Mrs Catherine Bronwen Jenkins. The western section includes a lake of about 3½ acres known as Pwllglas Lake, two cottages called Pwllglas and Pen-y-banc, and land O.S.560, 617 and 619 (1904 Edition) owned by Mr David Paul James as



successor in title of the aforementioned Joseph Jones. Obviously a further conflict arises out of the latter's having registered rights of common over land of which he was the owner. Moreover, if Ty-gwyn has registered rights of common over the Commons, a further conflict emerges similar to that arising under this reference. I should perhaps add that I find it difficult as a practical matter to envisage the existence of rights of pasture for sheep over Pwllglas Lake.

Mrs Williams gave evidence (and produced her title deeds) to the effect that no-one except herself or persons grazing sheep with her permission had ever during her ownership (since 1986) grazed any sheep on the parts of her property which are within CL.153. Among her deeds is to be found a tenancy agreement dated 16 May 1983 whereby the whole of her grazing land was let for a 364 day period to Mr Emyr Jenkins of Penrhiw. Mr Emyr Jenkins the son of Mrs C B Jenkins also gave evidence and produced his mother's title deeds: he is 57 years old and has lived all his life in the neighbourhood: he said that no-one except his family had ever grazed sheep on his mother's land at Ty-gwyn which is included in CL.153. Copies of the Ordnance Survey Map for the Parish surveyed in 1883 revised 1904 were produced by Mr Evans: these show a fenced boundary along the northern side of CL.153 where it adjoins the Commons.

The part of Pant y Gorlan now owned by Mrs Williams was conveyed to her predecessors in title R D Laurie and his wife E B Laurie on 29 September 1941 by Mrs E S M Rankin. On 30 April 1951 Mrs Rankin conveyed to Mrs Jenkins' late husband the land (mentioned above) forming part of Ty-gwyn. This Conveyance purportedly included also the Pant y Gorlan land which she had some ten years before conveyed to Mr & Mrs Laurie. A Statutory Declaration dated 23 October 1978 by Mrs E M O Isserlis states that the boundary between the two ownerships was not fenced until after an agreement with Mrs Jenkins as to the boundary in August 1978. I therefore consider that I am entitled to regard Mr Emyr Jenkin's evidence (which was not challenged by Mr D P James) as covering in time the period from 1951 to the present date, and also as covering in space not only his family's Ty-gwyn land, but also Mrs Williams' Pant y Gorlan land up to at least 1978.

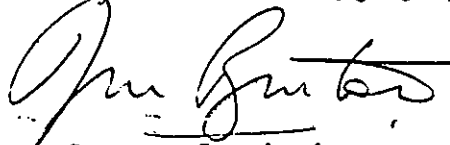
In these circumstances I consider that Mr Joseph Jones was in error when registering rights of common not only over his own land but also over the Ty-gwyn land and the Pant-y-gorlan land. As I have pointed out, the remainder of CL.153 is lake or enclosed land, and (since in accordance with Re West Anstey Common 1985 Ch.329 C.A. this reference requires me to consider the propriety of the registration as a whole) my decision is to refuse to confirm the registration of CL.153 as common land,

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

2nd day of November

1994

  
Commons Commissioner