



In the Matter of the tract of land known as Pant y Gwair situate in
the Parish of Llangwryfon

DECISION

This reference relates to the question of the ownership of land known as Pant y Gwair in the Parish of Llangwryfon being the land comprised in the Land Section of Register Unit No. CL.40 in the Register of Common land maintained by the Dyfed 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, I held a hearing for the purpose of inquiring into the question of the ownership of the land at Aberystwyth on 14 February 1995.

At the hearing:

- (a) Mr Martin Davies (of Ungoed-Thomas & King, solicitors) represented the Dyfed Wildlife Trust;
- (b) Mr Hugh Price (of Humphreys & Parsons, solicitors) represented Mr Thomas E Morgan;
- (c) Mr Alun Thomas (of Alun Thomas & Jones, solicitors) represented Mr David I Morgan; and
- (d) Mr W J Lewis represented the County Council.

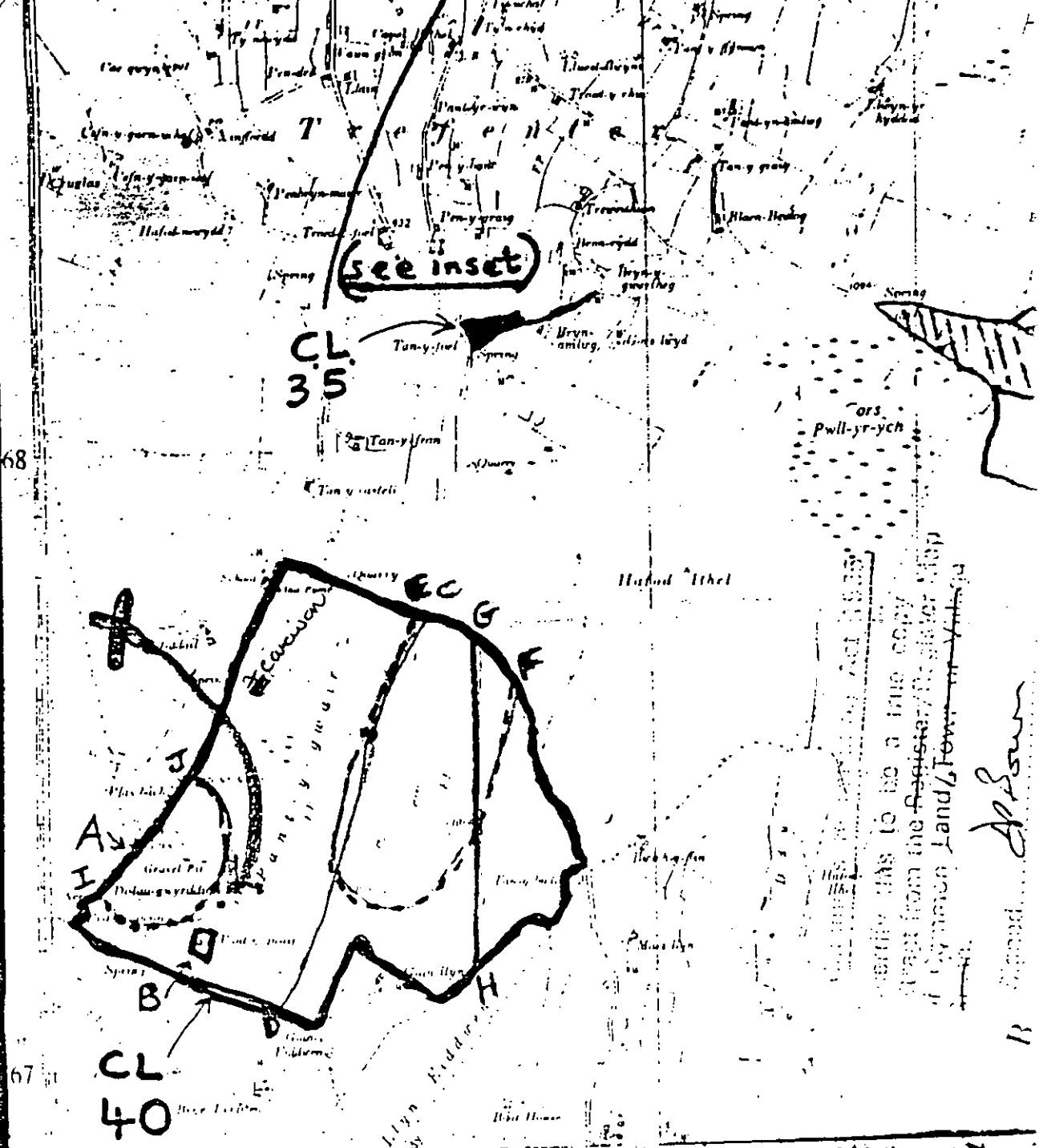
At the hearing claims to ownership were advanced on behalf of (i) the Trust and (ii) Mr Thomas E Morgan ("Mr Morgan").

As to the claim by the Trust, Mr Davies said that ownership could be established on the basis of a documentary title supported by exclusive possession since about 1980. The documentary title consisted of photocopies of:

- (a) a Conveyance of the unit land (together with other land) dated 9 July 1847 and made by the Commissioners of Her Majesty's Woods, Forests etc upon certain uses for life with an ultimate limitation to Isaac Jennings in fee simple; and
- (b) a Conveyance of the unit land dated 8 December 1981 and made by Miss Marguerite Louise Jennings, to West Wales Naturalists' Trust (now the Dyfed Wildlife Trust).

Mr Davies called Mr David Raymond Saunders to give evidence.

Mr Saunders said that he had since 1976 been and was still the Director of the Trust and that in 1980 and 1981 he had negotiated the acquisition by the Trust from Miss Jennings of the unit land together with other land. He said that Miss Jennings had told him that she believed that she was the owner of the land on the basis that she was the granddaughter of Isaac Jennings named in the 1847 Conveyance, that he had died without leaving a will and that she was his sole heiress since all his children had died unmarried except her father Richard who had had 3 children only, one of whom had died an infant, another had been killed





in the First World War (never having married) and she was the only survivor.

Despite the hearsay nature of this evidence I am for the purposes of this enquiry willing to accept it since it was not contradicted or put in doubt by any other evidence. On the contrary, evidence was given (as mentioned below) that in 1962 Miss Jennings acted as if she was the owner of the land by permitting the placing of a caravan thereon. Mr Saunders also said that Miss Jennings had told him that she was in sympathy with the aims of the Trust and that with a view to the preservation of this beautiful piece of land she was pleased to give it to the Trust in 1981.

Mr Saunders said that when the Trust acquired the land there was no evidence that anyone else was in possession of or had any claim to any part of it. The Trust's acquisition of the land and its designation as a Nature Reserve were in the Spring of 1982 announced in a Press Release and in the Trust's Bulletin, which had a wide circulation. At about the same time the Trust appointed Mr Andrew Agnew to be the Honorary Warden of the Reserve and he has since acted as such. A few years ago the Trust also appointed Miss Lin Gauder to be Reserve Officer for this land: as such she is a paid employee of the Trust and as Reserve Officer for this and several other Reserves she visits each Reserve from time to time as part of her duties and reports to the Trust's Conservation Committee. Neither Mr Agnew nor Miss Gauder nor any of the numerous members of the Trust who have visited the land has reported any interference or activity or claims relating to the land by third parties contrary to the Trust's interest except

- (i) the presence of a derelict uninhabited and uninhabitable caravan towards the north-west corner of the land; and
- (ii) occasional visits by groups of travellers, mostly in the late summer, who have parked a range of vehicles on the land for periods of between a few days to about 5 weeks.

Mr Price then opened the case for Mr Morgan. He said that the basis of his client's claim was that he had acquired title by adverse possession to the site of a caravan and land adjacent thereto forming part of the unit land. There is attached to this Decision a plan showing the approximate position of this caravan as stated by Mr Morgan at the hearing.

Mr Morgan gave evidence as follows. His father had since 1945 farmed at Cofadail, near Pant y Gwair and in 1968 registered a right to pasture 65 sheep on the unit land - see Entry No. 2 in the Rights Register. In August 1962 Mr Morgan was planning to get married and his father wrote to Miss Jennings and asked if they could put a caravan on her land. The following month, September 1962, they put a caravan thereon and Mr Morgan and his wife and children lived in it until 1978, when they moved into a house about 4 miles away. Since 1978 Mr Morgan has used the caravan for storing fodder and as a kennel for his dogs, visiting the caravan regularly, sometimes two or three times a day, without complaint or permission by anyone. He said that in 1962 he and his wife had started to graze sheep on the land building up to about 12 sheep in 1968, in addition to his father's. His father died in 1970 whereupon his mother continued the farming of Cofadail until about 1980. Mr Morgan said that in about 1978 he started to rent another small holding, Brynamlyg, about ½ mile to the north of Pant y Gwair from which they grazed another 20 sheep on the unit land. It was pointed out to Mr Morgan that this small holding already enjoyed



the right to pasture 25 sheep and 4 cattle (later amended to "not more than 8 ewes") - see Entry No. 11 in the Rights Register. But Mr Morgan said that he was not grazing sheep pursuant to this right.

Mr David Idris Morgan and Mr David Jenkins also gave evidence as to the caravan. Both of them have lived in the locality throughout their lives and remember Mr Morgan and his family living in the caravan. Mr D Morgan said it became so dilapidated that it was reduced to one quarter of its original length but Mr Jenkins said that the whole 22 foot long chassis had remained there. Both agreed it had been replaced by another caravan a few days before the hearing.

During the course of his evidence Mr Morgan admitted that he had never fenced any part of the land and that his father and others had exercised grazing rights on it. In these circumstances I suggested to Mr Price that his client could not show that he had ever had exclusive possession of any definable area of land other than the actual site of the caravan. Mr Price agreed and conceded that Mr Morgan's claim must be limited to this site.

Mr Davies, for the Trust, conceded that he was not in a position to challenge Mr Morgan's evidence to have used the caravan and visited it daily since about 1978 and throughout the Trust's ownership of the land.

Mr Thomas submitted that since Miss Jennings gave permission for the caravan, occupation by Mr Morgan so long as she was the owner, down to 1981, cannot have been adverse for the purposes of the Limitation Act 1980: and he referred me to Halsbury's Laws of England 4th Ed. Vol.28 para 768: and Moses v Lovegrove 1952 2 QB 533. On the basis of these authorities and also Hughes v Griffin 1969 1 WLR 23, I incline to the view that Mr Thomas' submission is correct. But I see no ground for rejecting Mr Morgan's claim to have been in adverse possession of the area of land - measuring 22 feet long - actually occupied by the caravan since the date of the Conveyance to the Trust (8 December 1981) and, this being more than 12 years ago, to have acquired title under the Limitation Act. I would add that the question whether Mr Morgan is entitled as of right to access to the caravan over the rest of the unit land is not a matter with which I am, or could be, concerned.

On the above evidence I am satisfied that Mr Morgan is the owner of the land (measuring 22 feet in length) on which the caravan actually stood and that subject only to this right of Mr Morgan the Trust is the owner of the whole of the unit land, and I shall in due course make appropriate directions to this effect.

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

13th

day of

March

1995

Commons Commissioner