



COMMONS REGISTRATION ACT 1965

Reference No 37/U/58

In the Matter of Town Row Green, Rotherfield
Uckfield R.D., East Sussex

DECISION

This reference relates to the question of the ownership of the part which is not edged red on the Register map, of the land known as Town Row Green, Rotherfield, Uckfield Rural District which said land is that comprised in the Land Section of Register Unit No CL.24 in the Register of Common Land maintained by the East Sussex County Council and of which said part no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference letters written on behalf of the Rotherfield Parish Council were sent to the Clerk of the Commons Commissioners stating that the Council were interested in the ~~map~~ land. 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 Lewes on 8 March 1973. The hearing was attended by Rotherfield Parish Council who were represented by Mr J P Swatland solicitor of David Swatland & Co Solicitors of Crowborough and by Mr & Mrs J Pashley in person.

Mr B G Walter who is and for the last seven years has been clerk of the Parish Council and who has lived near the land for 50 years during the course of his evidence said:- The land ("the Unit Land") comprised in this Register Unit contains about 2 acres and is grassland near a main road. In about 1965 the Parish Council, at their own expense arranged for a public seat to be placed there. The land edged red on the Register Map, of which Mr G C Tindall of Heathfield Cottage is the registered owner, is the only part of the Unit Land to which any claim of ownership has ever been made; the part so claimed is near Heathfield Cottage and is only a small part of the whole. The Unit Land is not and as far as Mr Walker knew, never has been fenced. From inquiries he had made of elderly members of the Council the Unit Land had always been common land, being open and accessible to anyone. The Parish Council had never formally maintained the Unit Land, although members under informal arrangements with the Council had from time to time voluntarily done such maintenance as was thought necessary.

Mr & Mrs Pashley contended that I should investigate the ownership of Mr Tindall of the land edged red on the map. In reply to her question Mr Walter said that the Parish Council do not accept that Mr Tindall is the owner of this land but cannot prove that he is not. The ownership registration of Mr Tindall being undisputed became final on 1 August 1972. In my opinion I have no jurisdiction either on this reference or on any other reference which could now be made to a Commons Commissioner under the 1965 Act to determine whether Mr Tindall is rightly registered as owner of the land edged red on the map.

Mr & Mrs Pashley supported the claim of the Parish Council to be registered as owner of the remaining part of the Unit Land.

On my saying that the evidence in support of the claim was not strong, Mr Swatland referred me to the decision dated 7 December 1972 of the Chief Commissioner in which he said he was satisfied that the Parish Council was the owner of a piece of land immediately to the south of the Unit Land; the land which was the subject of this



decision was registered as common land pursuant to an application made by the Parish Council after the application pursuant to which the Unit Land (which I am now considering) was registered, and is, so Mr Walter said, part of Town Row Green. The Chief Commissioner in his decision after saying that Mr Walter gave evidence that the Council maintained a seat on the land in question and had done so without an objection from anybody and that the Council also cuts the grass; continued: "This evidence is rather thin but in the absence of any conflicting claim to the ownership of the land, I have come to the conclusion that I am justified in holding that the Parish Council has made out a possessory title". I too think the evidence before me is rather thin; whether or not I would unaided by the decision of the Chief Commissioner as regards ^{have} the Unit Land reached the same conclusion, I feel no doubt that in the circumstances of this case I ought to take the same course. I do this with no regret; the information put before me indicates that the division of the ownership of the land comprising register Units CL.86 & CL.25 into two parts between Mr Tindall and the Parish Council is likely to be inconvenient. It would be even more inconvenient if as a result of my decision it were divided into three parts, between them and the person determined by Parliament under section 1(3) of the Act of 1965.

For the above reasons I am satisfied that the Parish Council is the owner of the land the subject of this reference and I shall accordingly direct the East Sussex County Council as registration authority to register under section 8(2) of the Act of 1965 the Rotherfield Parish Council as the owner of the part which is not edged red on the register map, of the land comprised in this Register Unit.

I am required by regulation 3C(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 1st day of May 1973

a. a. Baden Fuller

Commons Commissioner