



COMMONS REGISTRATION ACT 1965

Reference No. 212/U/135

In the Matter of Old House Lane
Common, Roydon, Epping Forest District,
Essex.

SECOND DECISION

This decision is supplemental to my decision dated 18 December 1979 relating to the ownership of the land ("the Unit Land") comprised in the Land Section of Register Unit No. CL 174, and made upon evidence given at a hearing held by me at Chelmsford on 18 October 1979. In such decision I said I was satisfied as to the ownership of (1) Mr and Mrs Howard, (2) Mr and Mrs Willie and (3) Mr and Mrs Lerner of the parts of the Unit Land therein specified.

I held the adjourned hearing for the purpose of inquiring into the ownership of the other parts of the Unit Land at Chelmsford on 27 January 1981. At such hearing, (1) Mr J M Evans again attended in person on his own behalf and as representing Mrs D M Evans; (2) Mr G A Carr and Mrs D L Carr again attended in person; (3) Mr Alfred Ernest Baker of Hilary, Old House Lane attended in person and as representing his wife Mrs Mildred Agnes Baker; and (4) Mr Leonard Fitzpatrick and Mrs Sheila Fitzpatrick of Hawthorns, Etting Road (Hawthorns is at the junction of Etting Road with Old House Lane and has a side frontage on the Unit Land) attended in person.

Oral evidence was given by Mr A E Baker and Mr J M Evans in the course of which it appeared that the part ("the Hilary fronting part") of the Unit Land now claimed by Mrs M A Baker should have been listed in the Schedule to my 1979 decision after Penrhyn and before Cata; the reason why Cata so listed ceased to be called Hilary was because Mr Baker ~~and~~ he moved from Cata ~~and~~ took the name Hilary with him.

Mr Baker in the course of his evidence produced: (1) an abstract dated 1945 of the title of Mr T H Chapman which commenced with a conveyance dated 9 September 1876 and which showed him to have become under a conveyance dated 30 October 1939 the owner of land having a frontage to Old House Lane of about 300 feet, which land included 1 and 2 Oakley Villas; (2) a conveyance dated 16 May 1952 by which Mr V Hall conveyed to Mrs M A Baker land having a frontage of 50 feet to Old House Lane; and (3) a copy of a conveyance dated 4 September 1944 by Mr T H Chapman to him Mr A E Baker of land having a frontage of 270 feet to Old House Lane.

Mr Baker who is 71 years of age said (in effect):- He first walked up Old House Lane about 60 years ago; at that time it was a cart track with grass along the middle. At the far end there was a pond (since filled in) opposite the Old House (now called Game Farm). The Old House (Farm) was there when he was a lad; in his time the first houses to be built were the row of Council Houses (Nos. 1-14); next Mr Alen built 1 and 2 Oakley Villas. He first bought land fronting on the Lane in 1944; he sold off plots subsequently repurchased some of those he had sold; at one time he owned land on (? or near to) which Hawthorns now stands.

Mr Evans in the course of his evidence produced: (1) a copy of a conveyance dated 12 September 1974 by which Mr K H L Cook and Mrs P R Cook conveyed Cata



- 2 -

(therein described as "formerly known as Hilary but now known as Tanga") to him (Mr Evans) and Mrs D M Evans; and (2) an epitome of the title of Mr and Mrs Carr with abstract and copy documents, next thereto by which was traced the title of Cata back to a conveyance dated 14 August 1935 made by Mr E C Corner to Mr William Alen. These documents showed Mr A E Baker to have been the owner of Cata (or the land on which it now stands) from a conveyance dated 4 September 1944 by Mr T H Chapman to him to a conveyance dated 7 September 1945 by him to Mr E H Walker and from a conveyance dated 7 January 1952 by Mr N O Walls to him to a conveyance dated 16 June 1963 by him and others to Mr and Mrs Cook.

So far as the ownership of the dwellinghouses now known as Cata and Hilary and of the land between them and the south boundary of the Unit Land, the title of Mr and Mrs Evans and of Mrs Baker as respective owners is by the said documents regularly deduced.

As regards the part of the Unit Land fronting on Cata:- The 1963 conveyance made by Mr Baker and others to Mr and Mrs Cook includes the words: "Together also with all such right title or interest which the Vendor may have in any land in front of that identified by and coloured Pink on the plan annexed hereto if and so far as the same does not form part of the Public Highway". The 1974 conveyance contained similar words.

About the insertion of these words in the 1963 conveyance and the use made of the parts of the Unit Land fronting on Cata and Hilary, Mr Baker said (in effect):-
The south boundary of the Unit Land is where there used to be the ditch leading from the pond (before mentioned), in 1951 when he bought the land from Mr Walker, the land was rough and between it and the Unit Land there was no gate or anything like that, and you just walked through a gap in the bushes. He built a bungalow *Mr Walker* on the land and lived there for 2 years but did nothing to tidy up around it, so when he (Mr Baker) bought it, it was a wilderness. He (Mr Baker) planted the hedge which now grows there (along the line of the old ditch) from then onwards till he left in 1963 the grass on the Unit Land in front of the hedge was mowed (in the summer) every week and he tidied it up so as to make it as tidy as it is now (when I inspected it it was tidy) at the time his son lived at Penrhyn and did the mowing in front of the land. Mr Cook after he purchased the land (1963) planted the fir tree and the two weeping willows now there and continued to mow the grass as formerly.

Although the words above quoted from the 1963 conveyance are not ~~considered~~ by themselves evidence of ownership, they indicate that then ~~a period of~~ the part of the Unit Land fronting on Cata could have been known *along* with it, and provide therefore some confirmation of Mr Baker's evidence. Quite apart from such confirmation, I have no reason for not giving full effect to what he said; *and accordingly I* concluded that he, and Mr and Mrs Cook and Mr and Mrs Evans have been successively in possession of such part ^{owner} ~~owner~~. As regards part of the Unit Land fronting on Hilary, the possessory acts described by Mr Baker must be treated as done upon behalf of Mrs M A Baker who was the owner of the house under the 1952 conveyance; ~~and~~ accordingly on the same evidence I conclude that she has been in possession of such part since 1952. Possession in such circumstances is equivalent to ownership and I am therefore satisfied that Mr and Mrs Evans are the owners of the Cata part of the Unit Land and that Mrs Baker is the owner of the Hilary part of the Unit Land, and I shall accordingly pursuant to section 8(2) of the 1965 Act



- 3 -

direct Essex County Council (1) to register Mr John ^{Morris} ~~Morris~~ Evans and Mrs Diana Millar Evans of Cata, Old House Lane as the owner of the part of the land in this Register Unit which fronts the land now occupied with Cata (formerly Tanga) and to register Mrs Mildred Agnes Baker of Hilary, Old House Lane as the owner of the part of the land in this Register Unit ~~by~~ which fronts the land now occupied with Hilary (being that adjoining and west of such last mentioned land known as Cata); and for the purposes of this direction the land in this Register Unit shall be considered as divided into parts by straight lines being as near as may be continuations across such land of the now existing boundary of the said land occupied ~~by~~ Cata and Hilary.

At this adjourned hearing Mr G A Carr again gave oral evidence in support of his claim that he and/or his wife are the owners of the part of the Unit Land fronting on Kendal. Such evidence did not add significantly to what he said at the 1979 hearing, as recorded in my said 1979 decision. For the reasons therein given I am not satisfied that they or either of them are the owners of such part of the Unit Land.

Mr Fitzpatrick said he had not got any evidence as to the ownership of the part of the Unit Land fronting on Hawthorns because he only recently (about 5 months ago) bought the property, that this part was terribly overgrown and very rough, and it was likely therefore that his predecessor Mrs Martin did nothing on it.

In the absence of any evidence I am not satisfied that any person is the owner of any of the parts of the Unit Land which are not either in my said 1979 decision or in this decision particularly stated to be in the ownership of some person, and such parts will therefore remain 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 8th day of April 1981

a. a. Baden Fuller

Commons Commissioner