

COMMONS REGISTRATION ACT 1965



Reference No. 212/U/214

In the Matter of The Green and the Pond at the
Cross, Layer-de-la-Haye, Essex

DECISION

This reference relates to the question of the ownership of land known as The Green and the Pond at the Cross, Layer-de-la-Haye, being the land comprised in the Land Section of Register Unit No. CL 63 in the Register of Common Land maintained by the Essex 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 no person claimed to be the freehold owner of the land in question and no one claimed 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 Colchester on 30 November 1982.

At the hearing the Layer-de-la-Haye Parish Council was represented by Mr M Peach, Solicitor.

The evidence in this matter is contained in a very full and helpful affidavit sworn by Mr James Bunting, who has lived in Layer-de-la-Haye since 1921 and has been a member of the Parish Council since 1970. Since the Parish Council's claim is uncontested, it does not appear to be necessary to set out Mr Bunting's evidence in detail in this decision.

By a writing (not a deed) dated 24 December 1937 Mr Charles James Round, lord of the manor of Layer-de-la-Haye, as tenant for life under a resettlement dated 2 April 1908, agreed to surrender to the Parish Council all such rights of ownership as he might have in and over the land the subject of the reference for the laying out and improvement of it for use as an open space and the dedication thereof to the public as a permanent memorial to the Coronation of King George VI. This document was stated to be executed in pursuance of the power given to Mr Round by section 56 of the Settled Land Act 1925.

In my view, this document did not operate to convey the fee simple in the land to the Parish Council. It was an appropriation for an open space for the use of the public under section 56(1)(i) of the Act of 1925. Mr Round could have provided under section 56 (1)(ii) of the Act for the land to be conveyed to or vested in trustees on trust for securing its continued appropriation, but this he did not do, nor did he exercise his power under section 56(1)(iii) to execute a deed necessary or proper for giving effect to the provisions of the section; so it is very doubtful whether the document had an legal effect at all.

However, it is clear from the facts set out in Mr Bunting's affidavit that the Parish Council immediately went into possession of the land and has since continued to exercise the powers of an owner without any adverse claim or objection by anybody. There can be no doubt that the Parish Council has long since acquired a possessory title to the land.



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On Mr Bunting's evidence I am satisfied that the Parish Council is the owner of the land, and I shall accordingly direct the Essex County Council, as registration authority, to register the Parish Council as the owner of the land under section 8(2) 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

18th

day of

January

1983

Chief Commons Commissioner