



COMMONS REGISTRATION ACT 1965

Reference No. 212/U/207

In the Matter of The Village Green,
Wickham St Paul, Braintree D

DECISION

This reference relates to the question of the ownership of land described above being the land comprised in the Land Section of Register Unit No. VG. 84 in the Register of Town or Village Greens 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 claims to ownership of the land in question ("the Unit land") were made (1) by Wickham St Paul Parish Council to the whole, (2) by Mr D G Goodridge to part.

I held a hearing for the purpose of inquiring into the question of the ownership of the Unit land at ~~Chelmsford on 30 November 1982~~.

At the hearing Mr D Whipps, Solicitor, appeared on behalf of the Parish Council and Mr Goodridge appeared in person.

The Unit land consists of a triangular shaped area on the western side of the road going through the village from north to south. The southern boundary of the Unit land adjoins property including Oak Farm, which at its north eastern corner adjoins a small section ("the pond section") of the Unit land: this section comprises two ponds. It is the pond section which Mr Goodridge claims to own, the Parish Council's claim being to the whole of the Unit land including the pond section.

I will first consider Mr Goodridge's claim. By a Conveyance dated 29 September 1924 Oak Farm and fields of some 50 acres were conveyed to Albert Warren. The pond section was part of the property conveyed to him: He died in 1952. There were various assents of different parts of the Oak Farm property made by his personal representatives: of these, one dated 1 December 1971 was in favour of Gordon G Warren and was of Oak Farm itself and its barns stables and garden. From the plan on this Assent it appears that neither the fields nor the pond section were included. Following Gordon Warren's death in 1979, his four personal representatives assented to the vesting in themselves of the property comprised in the Assent of 1 December 1971 and then by a Conveyance dated 24 February 1982 they sold and conveyed to Mr Goodridge Oak Farm as shown on its attached plan, which was of a smaller area than that comprised in the Assent of 1 December 1971 and did not include the pond section. Since the date of the hearing a further Conveyance dated 8 December 1982 has been executed by the same four vendors in favour of Mr Goodridge: this recites the 1924 Conveyance to Albert Warren and the 1982 Conveyance to Mr Goodridge: that the pond section was not included in the 1982 Conveyance: that doubts have arisen



- 2 -

as to its ownership which the Parish Council has claimed: and that the Vendors have agreed to convey the pond section to Mr Goodridge for all such estate and interest as they may have. In the operative part of the Conveyance the vendors convey the pond section to Mr Goodridge for all their estate and interest, the consideration being £1.

It seems a fair inference from the form of this latest Conveyance that the Vendors themselves were uncertain of their title: in contrast to the Conveyance of February 1982, the latest Conveyance does not include a recital of ownership by the vendors or any covenants for title, or purport to be a Conveyance of the fee simple. Whilst it appears that the 1924 Conveyance to Albert Warren included the pond section, I have seen no conveyance or assent by him or his personal representatives which transferred the pond section and from which Mr Goodridge's title derived. I should add that Mr Goodridge did not adduce any evidence of acts of ownership in relation to the pond section by any owners of Oak Farm. In my view, Mr Goodridge has not established ownership of the pond section.

The claim by the Parish Council is based on a Conveyance to it by the Church Commissioners dated 21 March 1968. This is a Conveyance of the Village Green as shown on an attached plan, which is a plan of the Unit land including the pond section. There was a Statutory Declaration dated 3 January 1968 made by the Estates Secretary to the Church Commissioners, with a plan annexed corresponding to the plan on the Conveyance, the land shown including the pond section. The Declaration stated that the property shown on the plan formed part of the London Chapter Estates which vested in the Commissioners in fee simple by virtue of an Order in Council published on 13 August 1872, since when the Commissioners had been in receipt of the rents and profits from the land without any adverse claim. Mr Whipps told me that until 1978 there was no hedge on the northern side of the pond section and that the southern side (adjoining Oak Farm) was hedged: in 1978 a hedge was planted by the Parish Council on the northern side to screen the Village Hall from Oak Farm, and other money was expended by the Parish Council in 1975 on clearing the eastern of the two parts and on a poplar tree overhanging the pond section.

Taken by itself the evidence adduced in support of the Parish Council's claim would suffice to satisfy me of its ownership of the whole of the Unit land. The only challenge to its claim is that by Mr Goodridge in respect of the pond section. On the documentary evidence there is a doubt raised by the fact that in 1924 the pond section was included in the Conveyance to Albert Warren. That doubt does not assist Mr Goodridge since for the reasons mentioned above, I am not satisfied with the title deduced by Mr Goodridge based on the 1924 Conveyance to Albert Warren.

The doubt arising from the 1924 Conveyance is whether in 1924, the Vendor to Albert Warren - Mrs S E Johnson - or the Church Commissioners owned the pond section. The only evidence adduced which bears on this question was the Statutory Declaration made in 1968 by the Estates Secretary, and having



- 3 -

regard to that Declaration and also the absence in the documents produced by Mr Goodridge of any conveyance or assent relating to the pond section since 1924 (apart from what I consider to be the unsatisfactory conveyance of December 1982), I think that the Parish Council's claim to ownership of the Unit land, including the pond section, has been established. I shall accordingly direct the Essex County Council, as registration authority, to register Wickham St Paul Parish Council as the owner of the land under section 8(2) of the Act of 1965. I should perhaps add that if I had not been satisfied as to the Parish Council's ownership of the pond section, ownership would nevertheless have been vested in them under section 8(3) of the Act.

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

3 February

1983

Commons Commissioner