



COMMONS REGISTRATION ACT 1965

Reference No 212/U/104

In the Matter of White Hart Pond
West Bergholt Colchester EC

DECISION

This reference relates to the question of the ownership of land known as White Hart Pond West Bergholt Colchester EC being the land comprised in the Land Section of Register Unit No CL 30 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 Mr B G Macnally claimed to be the freehold owner of the land in question.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Colchester on 25 July 1978.

Mr Macnally appeared in person and there was also present Mrs E D Atkins the Clerk to the West Bergholt Parish Council.

Mr Macnally produced a conveyance whereby West Bergholt Parish Council purported to convey the land in question and a lease dated 29 April 1960 whereby the Parish Council leased the land in question to Mr Macnally.

The Parish Council was under the impression that when it conveyed the land that Mr Macnally owned the land because by Inclosure Award it was appointed and set out as a public pond and watering place. The land was not by the said award allotted to any persons nor was its use as a public pond or watering place confined to the Parish and in my view the Parish Council never owned the land and I have no information as to who was the true owner in 1960. Mr Macnally has been in undisputed possession of the land since 1960 and has since that date been in adverse possession as against the true owner and has a prescriptive title to the land.

On this evidence I am satisfied that Mr R G Macnally is the owner of the land, and I shall accordingly direct the Essex County Council, as registration authority, to register Mr B G Macnally 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

7th

day of August

1978

Commons Commissioner