



COMMONS REGISTRATION ACT 1965

Reference No. 59/U/32

In the Matter of Sutton Green,
Sutton, Greater London.

DECISION

This reference relates to the question of the ownership of land known as Sutton Green, Sutton, being the land comprised in the Land Section of Register Unit No.V.G.65 in the Register of Town or Village Greens maintained by the Greater London 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 the Corporation of the London Borough of Sutton claimed to be the freehold owner of the land in question and no other person 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 Watergate House, WC2N 6LB on 30th April 1974.

At the hearing Mr. M.J.Boon, solicitor, appeared for the Corporation of the London Borough of Sutton, and Mr. T.R. Lamplugh, the lord of the manor of Sutton, appeared in person.

The land in question was set out and allotted to and for the use of the inhabitants of the parish of Sutton to be held and enjoyed by them and used by them for the purposes of recreation by the Inclosure Award made in 1816 under the Sutton Inclosure Act of 1809 (49 Geo.III, c.lxv (local and private, not printed)). Mr.Boon accepted that the effect of the Award was to leave the soil of the Green vested in the lord of the manor, but claimed that the Corporation had acquired a possessory title by adverse possession.

The acts relied upon by the Corporation as constituting adverse possession are that the Corporation and its statutory predecessors have maintained the Green continuously for at least 50 years by the regular mowing of the grass . to form fine turf; the planting, pruning, and general cultivation of trees and shrubs in surrounding flower beds and borders on the Green; the regular collection and removal of litter; and the repair and upkeep of footpaths, kerbing, and edgings used in the lay-out of the Green. The Corporation has also removed dangerous trees, carried out tree surgery, and executed works of land drainage. The Corporation has given permission for the use of the land for school functions and fetes, but has never made a charge for such use.

In considering the legal effect of the acts on which the Corporation relies regard must be had to the nature of the property and circumstances in which those acts have taken place. There is no evidence that Mr.Lamplugh and his predecessors as lords of the manor have ever intended to abandon the ownership of the Green. The mere fact that they have made no use of it does not constitute a dispossession. Having regard to the fact that the land had to be left for the use and enjoyment of the inhabitants of the parish for



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the purposes of recreation, the non-user by the successive lords of the manor is consistent with their continued ownership of the soil. The acts relied on by the Corporation were designed to further the use of the land for recreation by the inhabitants of the parish and were therefore not inconsistent with the residual rights left with the lords of the manor after the award. The Corporation and their predecessors have not taken any benefit, such as by letting the grazing, to the deprivation of the lords of the manor. There being nothing in the acts relied upon inconsistent with the purpose to which the lords of the manor were required by the award to devote the land, they were not, in my view, sufficient to amount to a dispossession within the meaning of section 5(1) of the Limitation Act 1939: see Williams Brothers Direct Supply Ltd v. Raftery, [1958] 1 Q.B.159.

Mr. Lamplugh holds the lordship of the manor by an assent made 7th May 1970 and he produced to me earlier deeds carrying his title back to 16th October 1965.

On this evidence I am satisfied that Mr. Lamplugh is the owner of the land, and I shall accordingly direct the Greater London Council, as registration authority, to register him 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 24th day of May 1974

Chief Commons Commissioner