



COMMONS REGISTRATION ACT 1965

Reference No. 20/U/87

In the Matter of Shakerley Common,
Tyldesley, Wigan Borough, Greater Manchester

DECISION

This reference relates to the question of the ownership of land known as Shakerley Common, Tyldesley, Wigan Borough being the land comprised in the Land Section of Register Unit No. CL.132 in the Register of Common Land maintained by the Greater Manchester County Council (formerly Lancashire 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 Tyldesley Urban District Council claimed ownership of the land in question and Leslie Fink Ltd, auctioneers and estate agents of Manchester sent a copy of a letter from the District valuer about a proposed purchase from Trownbay Property Company of land at Shakerley Common. No other person claimed to be the freehold owner of the land in question or 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 Salford on 11 December 1975. At the hearing Wigan Borough Council were represented by Mr A Kitchen their principal assistant solicitor, and I was informed that earlier in the day David Fletcher & Co, solicitors of Manchester had, on behalf of Leslie Fink Limited, said that their ownership claim was withdrawn.

The land ("the Unit Land") comprised in this Register Unit contains (according to the Register) about 7.268 hectares (17.96 acres) and is approximately triangular being bounded by Boundary Street on the northwest, Common Lane on the east and Ellesmere Street on the south, and is crossed by the north end of Primrose Street North, and by a road joining Ash Street with Henry Street.

Mr Kitchen produced:- (1) a conveyance dated 23 April 1902 by which the Trustees of the will of the Duke of Bridgwater, with the consent of the Earl of Ellesmere, conveyed to the Tyldesley with Shakerley Urban District Council the greater part of the Unit Land and some other land; (2) a conveyance dated 25 February 1903 by which the Superintendant of the trust estates subject to the trusts of the said will with consent of the said Earl conveyed to Mr H Baxendale a plot of land which contained 492 square yards and which included nearly all the remainder of the Unit Land; and (3) a conveyance dated 28 December 1904 by which Mr H Baxendale conveyed to the said Urban District Council the said plot comprised in the 1903 conveyance. By the 1902 conveyance the Council covenanted that they would lay out the part of the Unit Land thereby conveyed as and for a public park or recreation ground and would permit the inhabitants of Tyldesley with Shakerley and the neighbourhood and the public generally to have the use and enjoyment thereof as a public park for the purposes of recreation at all reasonable times. The 1903 conveyance contained a similar covenant in respect of the part (about 206 square yards) now forming part of the Unit Land.



Mr Kitchen said (in effect):- The Unit Land is now all a public park and recreation ground with shrubs and trees. The differences between the Unit Land and that comprised in the conveyances produced are:- (i) the 1902 conveyance includes the site of the two roads which as above mentioned now cross the Unit Land, as part of the land thereby conveyed, apparently on the basis that such roads were not then there or intended; (ii) the land thereby conveyed did not include a strip apparently then a road joining Elm Street and Johnson Street, which strip is now (save that there is a footpath along it) the same as the rest of the Public Park and Recreation Ground; and (iii) a very small part (about 50 square yards) of the Unit Land situate on the west side of Primrose Street North is not comprised in any of the three conveyances.

As to (i) and (ii), I agree with Mr Kitchen that site of these former roads was impliedly included in the 1902 conveyance, it being presumed that a conveyance of land on both sides of a highway includes the soil of the highway. I am not concerned to investigate how the highways have been changed after the 1902-04 conveyances were made. As to (iii), in the circumstances described by Mr Kitchen, I can I think conclude that the Urban District Council in due course obtained a good possessory title.

For these reasons I am satisfied that the Borough Council as successors of the Urban District Council are the owners of the land, and I shall accordingly direct the Greater Manchester County Council, as registration authority, to register Wigan Borough Council as the owners 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 19th day of January 1976

a. a. Baden Fuller

Commons Commissioner