



COMMONS REGISTRATION ACT 1965

274/U/136

In the Matter of land known as Parc Y
Brenin in the Parish of Aberdaron

DECISION

REFERENCE

This reference relates to the question of the ownership of land known as Parc Y Brenin being the land comprised in the Land Section of Register Unit No. CL.14 in the Register of Common Land maintained by the Gwynedd County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

CLAIMANT

Following upon the public notice of this reference Andrew Owen Evan Davies claimed to be the freehold owner of the land in question.

HEARING

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Pwllheli on 17th April 1996.

ATTENDANCE

The hearing was attended by Mr Andrew Owen Evan Davies Senior Partner of Messrs. Lee Bolton & Lee Solicitors of 1 The Sanctuary Westminster SW1P 3JT acting on his own behalf together with an assistant and Mrs Mair Jones acting for the National Trust also with an assistant.

THE REGISTER

This Register unit, stated in the Register to have an acreage of 9.4 acres, was registered in 1967 upon the application of Aberdaron Parish Council. The registration being undisputed became final on 1st October 1970.

There are two subsisting entries in the Rights Section of the Register, being grazing rights for 6 sheep attached to Bryn Hyfryd, Rhiw and for 24 sheep and 1 cow attached Pig y Parc, Rhiw.

In the Ownership Section of the Register there is a curious entry dated 13th March 1990:-

"The whole of the land comprised in this register unit is now in the ownership of The National Trust for Places of Historic Interest or Natural Beauty."

It may be observed that this entry is inserted in column 4 (and not column 3) of the Ownership Section, and replaces an entry that the land was subject to protection under Section 9 of the 1965 Act (referring to the Decision of a Commons Commissioner dated 17th March 1981).



PREVIOUS OWNERSHIP INQUIRY

An inquiry into the ownership of the land was held by Mr Commissioner Hesketh at Porthmadog on 24th February 1981. On that occasion no person claimed to be the owner of the land, and no one claimed to have information as to its ownership. The hearing was however attended by Mrs J Evans, who appeared on behalf of the National Trust. In his Decision dated 17th March 1981 Mr Hesketh said that Mrs Evans told him that the Crown Estates Commission had confirmed that in 1831 the land had been conveyed to one Griffith-Jones. Mr Hesketh was not satisfied that any person was the owner of the land, and it remained subject to protection under Section 9 of the 1965 Act.

THE CLAIMANT'S TITLE

In support of his claim Mr Davies initially produced copies of the following deeds:-

1 May 1889	Conveyance	Mrs E G Roberts (1) T Griffith (2)
6 March 1942	Assent	Mrs J E Griffiths N R Davis Esq T V Oliver Esq
10 June 1982	Appointment of new trustees	N R Davis Esq and T V Oliver Esq (1) T V Oliver Esq (2) Mrs G E Davies, A O E Davies Esq and Miss G Davies (3)
23 June 1983	Conveyance	N R Davis Esq Mrs G E Davies A O E Davies Esq and Miss G Davies (1) A O E Davies (2)

THE 1983 CONVEYANCE

The 1983 Conveyance conveyed to Mr Davies in fee simple and absolutely:-

"All that farm tenement and land called or known as Parc-y-Brenin situate in the Parish of Rhiw then in the County of Caernarvon now in the County of Gwynedd"

Apart from the name Parc-y-Brenin there was nothing here to identify the property conveyed with the 9.3 acres of the Register Unit. There was no plan on this Conveyance.

THE 1889 CONVEYANCE

The 1889 Conveyance was a conveyance of:-

"two freehold tenements and land called and known as Parc y brenhin and Brynhyfryd containing by estimation 12 acres or thereabouts..... and now in the occupation of Thomas Jones (otherwise known as Thomas Humphrey) and Evan Roberts".



There was no plan on this Conveyance. Corroborative evidence was required to show that the 12 acres conveyed included the 9.4 acres of the Register Unit.

DOCUMENTS PRODUCED AT THE HEARING

At the hearing Mr Davies produced the following further documents:-

- (i) Conveyance dated 25th March 1831 made by J W Ponsonby Viscount Duncannon and W D Adams two of the Commissioners of Woods Forests and Land Revenues on behalf of His Majesty in favour of Griffith Jones
- (ii) Conveyance dated 6th April 1839 between Griffith Jones (1) and the Reverend Griffith Roberts (2)
- (iii) Statutory Declaration made by Mr Davies dated 10th April 1996.

DESCRIPTION IN OLD DEEDS

The description of the land conveyed by the Conveyance of 1831 was as follows:-

"All that piece or parcel of land containing 17 acres 2 roods and 30 perches or thereabouts with a cottage thereon situate lying and being on a common on Mynydd-y-Rhiw in the Parish of Rhiw in the said county of Caernarvon bounded on the north by the public carriageway number 2 on the plan annexed to the Award of the Commissioners appointed for carrying into execution the Act of Parliament passed in the 51st year of the reign of His late Majesty King George III intituled "An Act for enclosing lands in the parish of Aberdaron and other parishes and places therein mentioned in the county of Caernarvon" on the east by an allotment numbered 23 on the said plan and on the south by an allotment numbered 27 on the said plan and on the west by an allotment numbered 11 on the said plan."

The description of the land conveyed by the Conveyance of 1839 was very similar.

PLAN REFERRED TO

By diligent research Mr Davies had been able to find and inspect the Award made by the Commissioners under the Inclosure Act of 1811 and he supplied me with a photocopy of an extract from the plan thereon.

MR DAVIES' STATUTORY DECLARATION

In his Statutory Declaration Mr Davies stated that the property conveyed to him in 1983 had been in his late mother's family since it was conveyed to his great Grandfather Captain Thomas Griffith by the Conveyance of 1889. He had known the property personally since childhood and he was satisfied that the boundaries were correctly shown on the plan exhibited thereto marked "AOED 3". These boundaries correspond with those shown on the Register Map, although the latter is on a smaller scale.



MR DAVIES EVIDENCE

Mr Davies said that he had not learned about the Commons Registration until after his parents died in about 1990. He supplied me with a tracing of the relevant extract from the plan on the Inclosure Award and pointed out on that plan and the tracing various features whereby the boundaries were described in the 1831 and 1839 Conveyances. I was satisfied on this evidence that the 17 acres 2 roods and 30 perches comprised in these deeds included the whole of the 9.4 acres of the Register Unit.

THE NATIONAL TRUST REGISTRATION

The representatives of the National Trust confirmed that it makes no claim to ownership of any part of this Register Unit. It owned land close by, and the entry in the ownership section of this Register Unit must be a mistake. Mrs Jones said that she was familiar with the area, and had no idea how the mistake had arisen. The County Council did not attend to offer any explanation.

COSTS

Mr Davies asked me to award him costs against either the National Trust or the Registration Authority, one or other of which must have been responsible for the mistaken entry in the Ownership Section of the Register. I declined his application. Irrespective of the erroneous entry, a hearing before a Commons Commissioner was required in any event to determine Mr Davies's claim to be registered as owner of the Register Unit.

CONCLUSION

On this evidence I am satisfied that Mr Davies is the owner of the land, and I shall accordingly direct the County Council as registration authority to register him as owner under Section 8(2) of the Act of 1965.

APPEAL

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

10th

day of

May

1996

Mark Rott

Chief Commons Commissioner