



COMMONS REGISTRATION ACT 1965

Reference No. 274/U/129

In the Matter of Mynydd Mawr
Common, Betwys Garmon,
Arfon Borough, Gwynedd

DECISION

This reference relates to the question of the ownership of land in the Register said to be known as Mynydd Mawr Common, Betwys Garmon being the land comprised in the Land Section of Register Unit No. CL96 in the Register of Common Land maintained by the Gwynedd (formerly Caernarvonshire) 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 a reference dated 28 February 1972 made by Caernarvonshire County Council, no person claimed to be the freehold owner of the land in question and no one claimed to have information as to its ownership. Following a hearing on 31 January 1973 at which no person attended to claim ownership of the land or any part thereof, Mr H E Francis QC, Commons Commissioner in a decision dated 3 March 1973 said that he was not satisfied that any person is the owner of the land.

This reference dated 10 December 1984 was made after representations had been received from Mr Humphrey Owen Jones of Ty Coch to the effect that he is the owner of the whole of the land in this Register Unit. Following upon public notice of this 1984 reference, the National Farmers' Union said (letter dated 25 March 1985) that their member Mr Humphrey O Jones had documents and plans which indicate very clearly that he is the owner of this land; and Solicitors for Mr E W Evans said (their letter of 3 April 1985) that he is now the owner of Tros-y-Gol formerly owned by the Forestry Commissioners who had registered their rights to the grazing 85 sheep over the land.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Caernarfon on 31 March 1987. At the hearing Mr Humphrey Owen Jones and his wife Mrs Margaret Elizabeth Jones were represented by Mr Hugh Williams who is the Secretary of the Gwyrffrai Group of the National Farmers' Union.

The land ("the Unit Land") in this Register Unit is in the Register said to contain 15.2 acres. The Rights Section contains only one registration: made on the application of the Secretary of State for Wales, c/o Forestry Commission of grazing rights for 85 sheep attached to land known as Tros-y-Gol (in the register mistakenly called Tres-y-Gol). The farm buildings of Tros-y-Gol are about $\frac{1}{4}$ of a mile east of Ty Coch farm buildings.

Mr H O Jones in the course of his oral evidence produced the documents specified in the Schedule hereto, and said (in effect):- South of and adjoining the Unit Land is a common (part of Mynydd Mawr) being Register Unit No. CL16. The Unit Land is wholly within the area coloured pink on the 1919 conveyance plan; the south boundary of the Unit Land is approximately the same line as the "FP" (footpath) marked on such



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plan; such path is not now visible; he (the witness) had objected to it (being registered as a public footpath). Much of the east boundary of Ty Coch Farm (also the east boundary of the Unit Land) on the 1919 conveyance plan marked as "Iron Fencing", is now timber and wire fencing; although some of the iron fencing still stands. Ever since he could remember (he was born 24 June 1929) the Unit Land had been grazed with cattle and sheep as if it was part of Ty Coch Farm. Before he became the owner (in 1963) he was the tenant of his mother Mrs Elizabeth Jones (she died 15 April 1963) who made the 1952 assent (HOJ/2); Messrs Joseph Jones and Maurice Jones who made the 1963 conveyance (HOJ/1) are his brothers; Mr Morgan Owen Jones and Mr Joseph Jones being the parties to the 1936 conveyance (HOJ/5) were his father and uncle. The Unit Land comprises the whole plots 2370A and 2378 and the southern part of plot 2372 marked on the 1919 conveyance plan as part of the farm Ty Coch; the Unit Land is rough grazing and has always been grazed as part of Ty Coch Farm without there being any distinct boundary between it and the rest. The southsouthwest boundary of the Unit Land is part of a stockproof stone wall about 2 miles long separating the open mountain from Ty Coch and the other enclosed lands to the north and he and his father before him maintained this wall (so far as it extended by their land). In his (the witness') view the Rights Section registration was made pursuant to a mistaken claim (meaning that the Unit Land was never common land, and is and always has been part of Ty Coch Farm). The March 1987 letters (HOJ/7, 8 and 9) are all to the same effect: to the best of the knowledge of the writer no other parties had grazed cattle, sheep or goats on the Unit Land other than H O Jones previous to the registration; Mrs E Morgan who said she could recall as far back as 1952, was brought up in Tros-y-Gol until she left on marriage in about 1969 or 1970; Mr Elwyn Griffith who said he could recall back as far back as 1940, lived and still lives about a mile and a half away from Ty Coch; and Mr W R Griffith who said he could recall as far back as 1919, was now 86 years of age.

On the day after the hearing I visited Ty Coch Farm and from near the farm buildings viewed the Unit Land about 600 yards higher up.

I have a letter dated 12 April 1985 from the Treasury Solicitor reference L83/2226/JDH saying that provided that the rights registered on behalf of the Forestry Commission are preserved, the Forestry Commission does not object to the claim to ownership which has apparently been recently made by a local farmer. I also have a letter dated 13 March 1987 from the Solicitors Mr E W Evans saying that if Mr H O Jones can prove he is the legal owner of the property in question their client will not object provided that his rights are safeguarded (meaning his registered right of grazing) and "his right of access to the remainder of the Common via the land of which the title is now in question".

As to the right of grazing at Rights Section Entry No. 1: this in the Register is recorded as "being undisputed became final on 1 October 1970"; because neither Mr H O Jones nor anyone else made any objection, such registration was I suppose so recorded pursuant to section 7 of the 1965 Act. I have no jurisdiction under this reference to express any opinion as to whether under existing or future legislation this finality could be challenged on the ground that the Secretary of State for Wales made a mistake or that Mr H O Jones can be excused from failing to make an Objection within the time limited by the relevant Regulations. So nothing in this decision can affect any rights the Forestry Commission had or Mr E W Evans now has as a result of the Rights Section registration.



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A Commons Commissioner has no jurisdiction under the 1965 Act to determine rights of access over land registered under it. So nothing in this decision can affect any such right that is mentioned at the said March 1987 letter.

As to ownership: I accept the above summarised evidence as showing that Mr H O and Mrs M E Jones are the owners of the Unit Land. Having no evidence to the contrary, I am satisfied that they are the owners of it and I shall accordingly direct Gwynedd County Council as registration authority to register Mr Humphrey Owen Jones and Mrs Margaret Elizabeth Jones of Ty Coch, Betwys Garmon as the owners of the land under section 8(2) of the 1965 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.

SCHEDULE

Documents produced

| | | |
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| HOJ/1 | 16 October 1963 | Conveyance by Joseph Jones and Morris Jones as personal representatives of Elizabeth Jones who died 15 April 1963 to Humphrey Owen Jones and Margaret Elizabeth Jones of Ty Coch lands containing 114a.2p. with farmhouse and other buildings described in a conveyance dated 13 March 1936. |
| HOJ/2 | 23 March 1952 (? 1953) | Assent by Elizabeth Jones as executrix of Morgan Owen Jones in favour of herself of property Ty Coch described in said conveyance dated 13 March 1936. |
| HOJ/3 | 1 December 1952 | Probate of will of Morgan Owen Jones who died 11 February 1952 granted to Elizabeth Jones relict and sole executrix. |
| HOJ/4 | 15 February 1941 | Transfer by T H Armsden to Robert Lloyd Jones of a mortgage dated 1 January 1920. |
| -- | 15 August 1947 | Receipt endorsed on above for money due under said mortgage signed by R L Jones, the payment having been made by Morgan Owen Jones. |
| HOJ/5 | 13 March 1936 | Conveyance by Joseph Jones (vendor) to Morgan Owen Jones (purchaser) of lands (subject to recited mortgage of 1 January 1920) containing 114 a.2p. delineated on plan on conveyance dated 31 December 1919 by Reverend John Morgan Parry and others to the vendor (Joseph Jones) and thereon coloured pink together with appurtenances and also the right of common of |



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pasture for sheep upon the adjoining mountain side (at one time belonging to Reverend John Morgan Parry) which adjoin the premises at all times of the year as now appurtenant to the premises hereby conveyed.

Schedule

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| 2372 | Friddwen | | 12.2.16 |
| 2378 | Parcbach | | 2.3.20 |
| 2370A) | Caewefys bach and | | 17.1.37 |
| 2371) | Mawr or Ffridd Buchor | | |
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|-------------------------|------------------|---|
| HOJ/6 | 31 December 1919 | Conveyance by Reverend John Morgan Parry (vendor) with concurrence of trustees under a settlement made by will of John Parry (he died 1 August 1908) and a deed poll dated 27 March 1912 to Joseph Jones of plots of land containing 114 acres 2 perches in occupation of Joseph Jones at Ty Coch described in First Schedule (as for 1936 conveyance HOJ/7) coloured pink on the plan with appurtenances and also right of common of pasture (as aforesaid). |
| HOJ/7 HOJ/8 HOJ/9 | 7 March 1987 | Letters from Mrs E Morgan of Llywn Bedw, Bethel; Mr Elwyn Griffith of Cae Ysgubor, Waenfawr; and Mr W R Griffith of Caeau Gwynion, Betwys Garmon. |
| HOJ/10 | -- | Copy of plan referred to in conveyance of 31 December 1919. |

Dated this 27th day of May 1987

A. A. Bowen Fuller

Commons Commissioner