



COMMONS REGISTRATION ACT 1965

Reference No 50/D/41

In the Matter of Mynydd Uchaf,
Penmaenmawr, Aberconwy D

DECISION

This dispute relates to the registration at Entry No 16 in the Rights Section of Register Unit No CL. 11 in the Register of Common Land maintained by the former Caernarvonshire County Council and is occasioned by Objection No 75 made by E Ll Hughes and noted in the Register on 30 September 1970.

I held a hearing for the purpose of inquiring into the dispute at Caernarfon on 16 February 1977. The hearing was attended by Mr Oliver Jones counsel instructed by Messrs Porter & Co on behalf of Mr Tunnock and Mr Griffiths the applicants for rights and by Mr J Pritchard of Messrs Bellis & Co on behalf of Mr E Ll Hughes an applicant for rights under Entry No 8.

At an early stage in the hearing I was referred to a judgment of ^{the} Conway Llandudno and Colwyn Bay County Court dated 30 June 1966 whereby Mr Griffiths was restrained in perpetuity from causing or permitting or suffering his sheep to enter and/or graze on Ffridd Wanc without the approval of the Defendants Emyr Hughes and Evan Hughes. Ffridd Wanc is the part of the Unit Land downhill from the path running across it from West to East.

In the face of this judgment it is clear that Mr Griffiths can have no rights over Ffridd Wanc and the question I have to decide is whether he has rights over the remainder of the Unit Land. Mr Griffiths' farm Glyn Uchaf lies some distance away from the Unit Land to the northwest.

Mr Oliver Jones produced a conveyance dated 2 November 1922 whereby Glyn Uchaf was conveyed to H L W Jones and his wife K W Jones. The land was sold "together with all manorial and other rights members...and appurtenances whatsoever thereunto belonging". In my view these general words do not give rise to any implication that the land was sold together with the benefit of any rights of common. Confirmation for this view is to be found later in the conveyance where it provides that the ^{land} was sold "subject to such rights of common of pasture and turbary...as are legally exercisable over the same". The reference to rights of common of pasture in the exception gives rise to the inference that the draftsman would have included those words in the grant if that was his intention. Mr Oliver Jones also produced the conveyance dated 5 July 1955 to Mr Griffiths by J Fach Hughes. This conveyance repeated the language of the earlier conveyance and carries the matter no further. On this evidence Mr Oliver Jones boldly asserted that he had given evidence of a ^{later} title to the rights claimed. I cannot agree and I cannot find any evidence of a grant of grazing rights in either of the said conveyances.

Mr Oliver Jones then hopefully called evidence as to the exercise of the alleged rights.



Mr Tunnock gave evidence that he had lived at Glyn Uchaf since 1968 and that Mr Griffiths was his son in law and the Griffiths had run sheep over the area in past years. Cross-examined he said there had been sheep at Glyn for many years but he could not say they were on the mountain. Griffiths had a shepherd. He knew nothing of Griffiths in 1950. He accepted the judgment of the County Court.

J T Jones gave evidence that he is aged 47 and became shepherd to Mr Griffiths in 1959. He had not much experience as a shepherd. He looked after Mr Griffiths' sheep all round and others were grazing. The sheep went all over. Griffiths had bad sheep. Cross-examined he said he was now in the employ of the Water Authority; he only helped with the sheep at week-ends. Griffiths had about 400 sheep but now has 70. He had seen a number of sheep pens but could not say they belonged to Griffiths.

Mr Oliver Jones referred me to Vol 6 of Halsbury Laws of England p 220. This evidence however falls far short of that required to establish a prescriptive title. The evidence of Mr Griffiths' sheep grazing on the mountain goes no further back than 1959. No evidence was given as to why the County Court action was confined to Ffridd Wanc or as to the course that action took. The probability is that Mr Griffiths was unable to prove any title to grazing rights and in my view he is in no better position today.

For these reasons I refuse to confirm the registration.

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 4th day of April

1977

C. A. Little

Commons Commissioner