



In the matter of Hazeley Heath
Mattingley

DECISION

The reference relates to the question of the ownership of land described above being the part of the land comprised in the Land Section Register Unit No. CL 100 in the Register of Common Land maintained by the Hampshire 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 claims to ownership were made on behalf of Mr Anthony R Milburn and of Mr David T G Kean.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Winchester on 29 January 1986.

At the hearing Mr A P Wiltshire, solicitor, appeared on behalf of Anthony Milburn (now, I understand, Sir Anthony) and Mr C Holland, solicitor, appeared on behalf of Mr T S Lewis. The other claimant, Mr Kean, was not present or represented but documentary evidence in support of his claim had been submitted.

The Unit land, Hazeley Heath, has an area of about 337 acres which has no registered owner except for a small piece of some half an acre. It appears that Mr Lewis is the successor in title to that small piece: this inquiry is not concerned with the ownership of that piece, nor does Mr Lewis claim ownership of the remainder of the Unit land. That ownership is claimed by Sir Anthony, with the exception of a part which he conveyed to Mr Kean in 1984.

From the documents submitted in support of this claim it appears that Hazeley Heath was part of the property subject to a compound settlement. By a Deed of Appointment Release and Surrender dated 19 January 1971 Anne Milburn exercised a power of appointment in favour of her issue by appointing Hazeley Heath to her four children Caroline, Anthony, Diana and Michael in equal shares absolutely, with the effect that their interests were subject only to an existing life interest in favour of Dorothy Davy. By a Deed of Surrender dated 20 January 1971 Dorothy Davy surrendered this life interest: and by separate Deeds of Assignment each dated 12 June 1980, Caroline, Diana and Michael sold and assigned their respective shares in Hazeley Heath to Anthony. These Deeds have a plan of Hazeley Heath attached, which clearly corresponds to the Unit land. Finally by a conveyance dated 11 February 1981 Coutts and Co as trustee with the consent of Caroline Diana and Michael conveyed to Anthony in fee simple all the estate and interest in Hazeley Heath held by them.

By a Conveyance dated 3 December 1984 Anthony sold and conveyed to David Thomas George Kean a small piece of the Unit land adjoining its north eastern boundary and near to Crabtree Lodge. This piece ("the Kean piece") is shown edged red on the plan attached to this Decision.



On this evidence I am satisfied that Mr D T G Kean is the owner of the Kean piece and that Sir Anthony Milburn is the owner of the remainder of the Unit land (other than the piece of which there is already a registered owner). I shall accordingly direct the Hampshire County Council, as registration authority, to register Mr Kean, and Sir Anthony as such owners respectively under section 8(2) of the Act 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.

Date this

21st

day of

April

1986

L. J. Morris Smith
Commons Commissioner