



COMMONS REGISTRATION ACT 1965

Reference No. 15/U/49

In the Matter of The Wood on Ballingham Hill bend
and Ballingham Common, Ballingham, South Herefordshire D.,
Hereford and Worcester County

DECISION

This reference relates to the question of the ownership of land known as The Wood on Ballingham Hill bend and Ballingham Common (extending to about 6 acres), Ballingham, South Herefordshire District (formerly Ross and Whitchurch Rural District) being the land comprised in the Land Section of Register Unit No. CL.27 in the Register of Common Land maintained by the Hereford and Worcester 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 Mr. and Mrs. R.H. Thomas (by their solicitors) claimed that part of the land in question is part of their garden; no other person claimed to be the freehold owner of the land 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 Hereford on 10 December 1974. At the hearing: (1) Mr. R.H. and Mrs. G.M.G. Thomas were represented by Mr. C.G. Powell, solicitor of Beaumont Smith and Davies Solicitors of Hereford; and there were present in person (2) Mr. B.C. Harding chairman of the Parish Meeting (in 1974 the parish of Ballingham was grouped with other parishes under the Hentland and Ballingham Group Parish Council), (3) and (4) Mr. V.A. Watkins and Mrs. E.R. Williams (on whose application rights of common have been registered in the Rights Section of this Register Unit); and (5) Mr. E.C. Jackson (who has lived in the Parish for over 30 years).

Mr. Thomas in the course of his evidence produced: (1) a conveyance dated 17th April 1968 by which land with a cottage known as Wye View was conveyed by Mrs. N.C. Torny and Mrs. E.N. Sharpe to him and his wife; (2) a conveyance dated 19th December 1966 by which the same cottage was conveyed by Mr. A.G. Harris (as executor of Mr. George Harris) to Mrs. Torny and Mrs. Sharpe; and (3) a statutory declaration made on 11th November 1966 by Mrs. G.M. Pritchard as to the possession of her late father Mr. George Harris of a property known as Wye View.

Mr. Thomas said (in effect):- Of the land ("the Unit Land") comprised in this Register Unit, he and his wife claimed only a small piece ("the Claimed Piece") which (as I scale the plan annexed to the 1968 conveyance) extends to about $\frac{1}{4}$ of an acre. The Unit Land is a strip of varying width on the steep north slope of Ballingham Hill. Wye View is a house built on the side of the Hill, and is approached from the main road (at the bottom of the Hill) by a track which runs diagonally up the side of the Hill; the front of the house facing north has a



view down the Hill of the River Wye; the back of the house has a view of the steep slope of the Hill. The Claimed Piece was included in the land conveyed by the 1968 conveyance, being on the plan annexed edged green (the house and the land on the east north and west of the house held with it are on the plan edged red). The Claimed Piece is a steep bank ending on its south side in a hedge at the top of the Hill; beyond the hedge, there is grass land used by a farmer. When Mr. Thomas took over (1968), the Claimed Piece was clearly part of Wye View property; there were fruit bushes (raspberries and gooseberries) there; there was a track (grass steps straight up, and then a path diagonally up the slope) on the Claimed Piece leading from the land edged red. Since he took over he has kept the Claimed Piece clear, planting it with bulbs and other plants. He and his wife have never had any adverse claim of ownership.

The 1966 conveyance recites that Mrs. Tornya and Mrs. Sharpe have been in possession of the Claimed Piece (edged green on the plan) since 19th December 1966. The 1966 conveyance recites the title of Mr. George Harris at his death on 12th March 1966, and the 1966 declaration stated that either he or the declarant as his tenant or other tenants of his had since 1929 occupied the Wye View property (including the Claimed Piece; the declaration deals particularly with land ^{of the House} of the House, not part of the Unit Land).

On the above evidence, I conclude that Mr. and Mrs. Thomas have (at least) a possessory title to the Claimed Piece, and I am therefore satisfied that they are the owners of it, and I shall accordingly under section 8(2) of the 1965 Act direct the Hereford and Worcester County Council to register Mr. Richard Hinton Thomas and Mrs. Gwyneth Mary Goodman Thomas both of 52 Blacklow Road, Warwick as owners of that part of the land comprised in this Register Unit which is edged green on the plan annexed to my direction, and I shall ~~annex~~ to my direction, a copy of the plan annexed to the 1968 conveyance.

Nobody present at the hearing offered any evidence as to the ownership of the remaining part of the Unit Land. In the absence of any evidence, I am not satisfied that any person is the owner of this remaining part, and it will therefore remain subject to protection under section 9 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 of which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 20th day of December 1974

A. A. Baden Fuller

Commons Commissioner