



COMMONS REGISTRATION ACT 1965

Reference No.42/U/59

In the Matter of Walton Rise,
Clent, Worcestershire

DECISION

This reference relates to the question of the ownership of land known as Walton Rise, Clent, being the land comprised in the Land Section of Register Unit No.C.L.44 in the Register of Common Land maintained by the Worcestershire 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 no person claimed to be the freehold owner of the land in question, but the Clerk of the County Council claimed 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 Worcester on 6th June 1973.

The hearing was attended by Mr. P. Clayton, solicitor, on behalf of Mr. C. Stevens.

The land the subject of this reference consists of Ordnance No.423 and is bounded on the east by a bridle road and on the west by Ordnance No.422, which is the property of Mr. Stevens. Mr. Stevens claims to be the owner of a strip of Ordnance No.423 adjoining his property. This strip is narrow at the northern end and wider at the southern end, where it extends across Ordnance No.423 to the bridle road, from which it affords access to a garage built on the strip. There is another means of access to Mr. Stevens's property from a road which adjoins it on the south.

The current Ordnance Map is the edition of 1924. This shows a house, now occupied by Mr. Stevens, adjoining the eastern boundary of Ordnance No.422. On the eastern side of this boundary (in Ordnance No.423) there is shown a small building adjoining the house.

The earliest document relating to the history of Mr. Stevens's house produced to me is the particulars prepared for a sale by auction on 27th October 1958. In these particulars it is stated that the property is approached from the road leading to Walton Hill, which I interpret as being the road on the south side of the property. There is also a note stating: "The property does not include the Coal Shed or the Land at the rear of the property". I interpret the "Coal Shed" as being the small building lying to the east of the house in Ordnance No.423.

The property was conveyed to Mr. A.G. Swan on 16th December 1958. The conveyance does not refer to a plan and the parcels are stated to be "All that messuage or dwellinghouse situate in and known as The Cottage Walton Pool Clent near Stourbridge in the County of Worcester together with the land forming the site and curtilage thereof and the appurtenances thereto belonging".



-2-

Mr. Swan conveyed his property to Mr. R.W.I. Smith on 3rd November 1965. The parcels are described in the same words as in the conveyance to Mr. Swan, but there is a reference to a plan annexed which shows enclosed in a red edging the whole of Ordnance No.422 and the southern part of the strip now claimed by Mr. Stevens. It appears from a statutory declaration made by Mr. Smith on 29th December 1970 that at the date of the 1965 conveyance the majority of the boundaries of the property were clearly marked by fences and a hedge except for the eastern boundary of the northern part of the strip now under consideration, which was not clearly defined and consisted of scrub land. Within six months after the 1965 conveyance Mr. Smith cleared the scrub land and found a post and wire fence along what is now claimed to be the eastern boundary of the northern part of the strip. Mr. Smith gathered from enquiries which he made of Mr. Swan that the post and wire fence had been erected by Mr. Swan shortly after he acquired the property in 1958. Thereafter Mr. Smith maintained the fence in the position in which he found it and used and occupied all the land within the boundary without any adverse claim.

On 29th December 1970 Mr. Smith conveyed to Mr. Stevens the parcels described in the 1958 and 1965 conveyances together with "such right and interest (if any) as the Vendor has in the land cross hatched blue on the said plan", i.e. the northern part of the strip now claimed by Mr. Stevens.

Shortly after his purchase Mr. Swan erected the garage on the northern part of the strip and has since used it, obtaining access from the bridle road over the southern part of the strip.

On this evidence it appears to me that Mr. Stevens now has a squatter's title to that part of the Ordnance No.423 which lies between the fence and the eastern boundary of Ordnance No.422.

For these reasons I am satisfied that Mr. Stevens is the owner of the land, and I shall accordingly direct the Worcestershire County Council, as registration authority, to register Mr. Stevens as the owner of the land between the fence and the eastern boundary of Ordnance No.422 under section 8(2) of the Act of 1965.

In the absence of any evidence I am not satisfied that any person is the owner of the remainder of the land 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 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 26th day of June 1973

Chief Commons Commissioner