



COMMONS REGISTRATION ACT 1965

Reference No.16/D/25

In the Matter of Hedges Wood Common,
Great Gaddesden, Hertfordshire (No.2).

DECISION

This dispute relates to the registration at Entry No.3 in the Rights Section of Register Unit No.C.L.3 in the Register of Common Land maintained by the Hertfordshire County Council and is occasioned by Objection No.7 made by Mr. John Simon and noted in the Register on 22nd November 1968.

I held a hearing for the purpose of inquiring into the dispute at Hertford on 18th January 1973. The hearing was attended by Mr. Richard Scott, of counsel, on behalf of the Objector. Before the hearing Messrs. Neve, Son & Co. applied by letter for an adjournment on the ground that Mr. S.F. Simmons would be prevented by illness from attending the hearing. The application was accompanied by a medical certificate. Messrs. Neve, Son & Co. stated that their instructions did not allow them to make the application personally, having regard to the question of costs. The Objector was unwilling to agree to the adjournment, and on being informed of this Messrs. Neve, Son & Co. submitted a statutory declaration made in 1969 by Mr. R.D. Hoar, one of the witnesses intended to be called on behalf of Mr. D.E.J. Simmons, the applicant for the registration.

When the case was called on Mr. Scott objected to the application for an adjournment. Since it was not stated that Mr. S.F. Simmons was an essential witness and having regard to the fact that no reason was given for the failure of Mr. D.E.J. Simmons to attend the hearing to apply in person for an adjournment, I decided to inquire into the matter under section 6(1) of the Commons Registration Act 1965, but keeping in mind the possibility of adjourning the hearing should it subsequently appear to be necessary in the interests of Mr. D.E.J. Simmons so to do.

The Objector, Mr. John Simon, is registered as the owner of the whole of the land the subject of the reference. That registration, being undisputed, became final on 1st October 1970. While section 10 of the Act of 1965 does not make the registration conclusive evidence of Mr. Simon's ownership, it seems to me that as between Mr. Simon and Mr. D.E.J. Simmons I am entitled to proceed on the footing that Mr. Simon is the owner.

Mr. D.E.J. Simmons claimed to be entitled to a right to graze 8 cows and a right to take bracken and grass attached to land in the parish of Great Gaddesden opposite the Plough Inn and distinguished by Ordnance Survey Nos. 144, 145, and 159.

Mr. Simon was unable to produce the conveyance on his purchase of Hedges Wood Common, but he said that a photo-copy of a conveyance from the Public Trustee dated 3rd October 1956 was a true copy of the conveyance to him.

Mr. Scott raised no objection to the admission of Mr. Hoar's statutory declaration. Three generations of the Hoar family down to Mr. Hoar's father were tenants of Southings Farm, which lies to the north west of and adjoining



-2-

Hedges Wood Common down to 1923. Mr. Hoar's recollection goes back to 1903. He remembers going with workmen to cut bracken on the Common for bedding for cattle and tending his father's sheep on the Common. This was done every year from 1903 to 1923. Mr. Hoar also remembers other persons grazing cattle and cutting bracken on the Common, but he does not state that this was done by the owners or occupiers of the land in respect of which Mr. D.E.J. Simmons makes his claim.

There is thus no evidence before me of the existence of any rights of common attached to the land in respect of which Mr. D.E.J. Simmons makes his claim. Furthermore, if such a right ever existed, it must have been extinguished. It appears from the Particulars of Sale of the Beechwood Estate prepared for the sale in 1956, when Mr. Simon bought Hedges Wood Common, that the land in respect of which Mr. D.E.J. Simmons claims and Hedges Wood Common were both at that time in the ownership of the Public Trustee as the personal representative of Sir Giles Sebright, Bt. It appears from para.8 of the Special Conditions of Sale and a recital in the conveyance to Mr. Simon that this unity of ownership was brought about by a vesting assent dated 22nd August 1930.

I have come to the conclusion that the unity of the ownership of Hedges Wood Common and the land in respect of which Mr. D.E.J. Simmons claims is fatal to his claim to rights of common, and I therefore refuse to confirm the registration.

Mr. Scott applied for an order for costs. This seems to me to be a proper case for such an order. I shall therefore order Mr. D.E.J. Simmons to pay Mr. Simon's costs to be taxed on County Court Scale 4.

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 31st day of January 1973

Chief Commons Commissioner