



COMMONS REGISTRATION ACT 1965

Reference No.16/U/52

In the Matter of Shaw Green,
Rushden, Hertfordshire.

DECISION

This reference relates to the question of the ownership of land known as Shaw Green, Rushden, being the land comprised in the Land Section of Register Unit No.C.L.37 in the Register of Common Land maintained by the Hertfordshire 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 both the Trustees of the Manor of Rushden and Streather Hayward Farms Ltd. claimed to be the freehold owners of the land in question and no other person 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 Hertford on 17th January 1973.

At the hearing the Trustees were represented by Mr. G.D. Chalk, himself a Trustee. Mr. Chalk produced a deed dated 16th February 1931, whereby James Ambrose Harman conveyed to three trustees the manor or reputed manor of Rushden together with (*inter alia*) the land the subject of this reference on trust to preserve the land as an open space for the purposes of the recreation of the inhabitants of Rushden. The present successors of the trustees named in this deed are Mr. Chalk and Mr. Horace Chapman, both of whom produced properly executed deeds of appointment.

Although the Trustees have maintained the other land conveyed to them in 1931 and have collected small sums in respect of wayleaves over such other land, they have never taken any action in respect of Shaw Green, which is on the outskirts of the parish. Until about 1951 it was used for grazing by local residents. Shortly before Mr. Chapman was appointed a trustee on 16th June 1951 a Mr. John Semple of Shaw Green Farm, who was the predecessor in title of Streather Hayward Farms Ltd, cleared the scrub and ploughed up the land without any permission and took crops off it during the next six or seven years. Mr. Semple sold his farm to a Mr. Hunt, from whom Streather Hayward Farms Ltd purchased it in May 1958. When Streather Hayward Farms Ltd purchased they took over a standing crop of barley and each year since they have cropped the whole of Shaw Green, with the exception of a small portion at the north-west corner, which has been put back to grass. Streather Hayward Farms Ltd have never asked for permission nor made any payment, nor has anyone ever disputed their right to use the land. As Mr. J.R. Streather said in evidence: "We have treated the land as our own".

Mr. Chalk explained this state of affairs by saying that the Trustees had no funds to spend on the maintenance of their land, apart from the small sums received from wayleaves, and that maintenance had been carried out by the voluntary labour of himself and Mr. Chapman. Mr. Chalk said that Shaw Green could only be of use to the inhabitants of the houses in its immediate vicinity and that the Trustees thought that the best way of managing it was to allow



-2-

the farmer at Shaw Green Farm to cultivate it. There was, however, no arrangement that this should be done: Mr. Chalk described it as "a mutual understanding".

I find myself driven by this evidence to the conclusion that there has been adverse possession of this land by Streather Hayward Farms Ltd and their predecessors in title since 1951 and that this has resulted in the claim of the Trustees becoming statute-barred. On the other hand, I am satisfied that Streather Hayward Farms Ltd now have a good possessory title.

For these reasons I shall direct the Hertfordshire County Council, as registration authority, to register Streather Hayward Farms Ltd as the owners of the land under section 8(2) 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 31st day of January 1973


Chief Commons Commissioner