



COMMONS REGISTRATION ACT 1965

Reference No. 216/U/23

In the Matter of Wallington
Common, Wallington, North
Hertfordshire District, Hertfordshire

DECISION

This reference relates to the question of the ownership of land known as Wallington Common, Wallington, North Hertfordshire District being the land comprised in the Land Section Register Unit No. CL 68 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 no person claimed to be the freehold owner of the land in question and no 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 15 January 1981. At the hearing (1) Streather Hayward Farms Limited of Shaw Green Berm, Rushden was represented by Mr P D Limbach, Solicitor of Limbach Banham and Company, Solicitors of Royston, (2) Mrs M V Bald on whose application the Land Section registration was made, was present in person as Chairman of Wallington Parish Meeting, (3) Rushden and Wallington Parish Council were represented by Mr R F Masters their clerk; and (4) Mr John Walter Murray Wallace of Broom Hall Farm, Watton-on-Stone, Hertfordshire was present in person on his own behalf and as representing his brother Mr Robert Wallace.

Oral evidence was given by Mr James Robin Streather in support of the claim of Streather Hayward Farms Limited to the ownership of the land in this register unit; in the course of his evidence he produced a conveyance dated 29 September 1959 of some adjoining land known as Drapers Farm, and a certificate dated 21 June 1960 of his membership of the Puckeridge Rabbit Clearance Society, and an OS map (1/2,500) dated 1923; he also gave information about the nature of the land and the use made of it and was questioned about these things by Mr Wallace and Mr Masters. After the mid day adjournment, at the suggestion of Mr Limbach and with the agreement of Mr Masters, Mr Wallace and Mrs Bald, I adjourned the proceedings in order that the persons present might discuss their respective positions.

I held the adjourned hearing at Hertford on 28 October 1981. At this hearing Rushden and Wallington Parish Council were represented by Mr S F Roche articled clerk with Hawkins & Co, Solicitors of Hitchin. On his application, he having so I understood the agreement of the other persons concerned, I adjourned the proceedings to London. I held the further adjourned hearing at London on 16 February 1982. At this hearing Streather Hayward Farms Limited, Mr John Walter Murray Wallace and Mr Robert Wallace were all represented by Mr P D Limbach above mentioned, and Mrs M V Bald and Rushden and Wallington Parish Council were represented by Mr T N Heffron, solicitor of Hawkins & Co.

Mr Limbach and Mr Heffron said that agreement had been reached between those they represented pursuant to the conveyance and trust deed below mentioned. Oral evidence was then given by Mr J W M Wallace.



By the conveyance which is dated in February 1982 (the day of my hearing) Streather Hayward Farms Limited, Mr J W M Wallace and Mr R Wallace "so as to benefit the inhabitants of the Parish of Wallington" conveyed all their estate and interest in the land in question in these proceedings to Messrs J R Streather, J W M Wallace, J R C Smith and R J S Roughley ("the Claimants") upon the trust declared concerning the same by a trust deed of even date. By the said trust deed the Claimants declared that the trust should be known as "the Wallington Common Trust" should be for charitable purposes for the benefit of the inhabitants of the said parish as therein provided including a provision that as far as possible two of the trustees should be or be approved by the owner or owners of the part of Shaw Green Farm and the part of Wallington Bury Farm which abuts upon the trust property and the remaining two trustees should be nominees for the time being of the Wallington Parish Meeting. Mr Heffron explained that Messrs J R C Smith and R J F Roughley were (as stated in the conveyance) two persons nominated by the Parish Meeting.

By section 8 of the 1965 Act under which these proceedings are being held, I am required to say whether I am "satisfied" as to ownership. So in relation to the Claimants I must consider the oral evidence given as the 1981 and the 1982 at hearings as to the ownership of Streather Hayward Farms Limited ("SHFL") and/or Messrs J W M and R Wallace.

The land "the Unit Land" in this Register Unit contains about 10,423 acres. Near and within the east boundary there is a public footpath and bridleway. Drapers Farm, since 1959 was owned by SHFL, adjoins its west and south sides. Coles Wood, part of Broomhall Farm adjoins its east side. A narrow strip part of Drapers Farm, adjoins its north side.

At the 1981 hearing Mr Streather said (in effect):- In 1959 the Unit Land was much overgrown with scrub and its chief inhabitants were rabbits. They caused serious damage to crops on Drapers Farm. Rabbits were difficult to control because the then scrub enabled them to live on the surface and they could not therefore be gassed. SHFL joined the Puckeridge Rabbit Clearance Society and they arranged for bulldozing a circular ride on the Unit Land. With the coming of myxomatosis the Society was disbanded; the problem has restarted again. His understanding was that the Unit Land was in some way a responsibility of the owner of Drapers Farm. When the Puckeridge Hunt found on the Unit Land the find money was paid to them on the basis that it was the custom of the Hunt to pay such money to the owner of Drapers Farm. He would like the Unit Land cleared and planted with hard wood trees so as to get rid of the vermin and make a pleasant place which could be enjoyed by the adjoining land owners and the public.

At the 1982 hearing Mr J W M Wallace said that for the last 7 or 8 years shooting at Broomhall Farm had been let to a tenant under a verbal agreement which included the Unit Land. Before the tenancy he and his brother had shot over the Unit Land pheasant and rabbit and anything which was there (meaning the odd vermin, magpies etc).

Upon the question of whether the activities of SHFL and/or Messrs Wallace are under the Limitation Act 1939 possession adverse to the true owner (if any such could be found) enough to extinguish his ownership, the evidence summarised above lacks cogency. But for my purpose I need I think only consider whether the possession of the Claimants of the Unit Land under the conveyance would be likely to be disturbed. As to this I have the agreement of the Parish Council and of the



adjoining landowners; I know that after the public hearing locally advertised no persons other than those who attended or were represented at it have come forward to claim ownership. The evidence of Mr Streater and Mr Wallace were given in the public interest and not for their private advantage. On it I conclude that it is practically certain that the possession of the Claimants under the conveyance will not be disturbed, and possession in such circumstances is equivalent to ownership.

Upon the above considerations I am satisfied that the Claimants are the owners of the land and I shall accordingly direct Hertfordshire County Council as registration authority to register Mr James Robin Streater of Shaw Green Farm, Rushden, Mr John Walter Murray Wallace of Broomhall Farm, Watton-at-Stone, Mr James Roderick Coutts Smith of Derby Arms Cottage, The Street, Wallington and Mr Robert James Fawns Roughley of Barn Cottage, The Street, Wallington (~~they~~ being the first trustees of the Wallington Common Trust under a conveyance and trust deed both dated 16 February 1982) 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 15th — day of March — 1982

a. a. Baden Fuller

Commons Commissioner