



COMMONS REGISTRATION ACT 1965

Reference NO. 220/U/48

In the Matter of Elmers Green, Skelmersdale
and Holland

DECISION

This reference relates to the question of the ownership of land known as Elmers Green, Skelmersdale and Holland being the land comprised in the Land Section of Register Unit No. CL.299 in the Register of Common Land maintained by the Lancashire 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 one 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 Preston on 25th April 1989.

The hearing was attended by Mrs S M Cunliffe, administrative officer of Lancashire County Council and Mrs S. Watson.

The greater part of Elmers Green is registered as common land under Register Unit No. CL.24. It was registered upon the application of Dalton Parish Council, and the registration was undisputed and became final on 1st October 1970.

CL.299 (to which my present inquiry relates) is a comparatively small piece of land at the north-eastern corner of CL.24 and lying between it and the road frontage.

The distinction between this register unit and CL.24 is that the CL.299 land was not included in the application for registration made by Dalton Parish Council. Instead it was registered by the registration authority without application.

A further distinction is that objection to the CL.299 registration was made by Mrs Frances A. Holloway (nee Moore). The dispute which then arose was referred to a Commons Commissioner by the County Council and I held a hearing to inquire into it at Rawtenstall on 20th April 1988.

At that hearing I was told that Mrs Holloway had died in or before 1977. Letters to her last known address were returned through the Post Office. The then occupier at that address had no knowledge of her successors. The usual advertisements had produced no results, and no-one appeared at the hearing to support her objection. Accordingly I confirmed the registration of CL.299 as common land.



I mention these matters because much of what I said in my Decision dated 17th May 1988 is relevant to the present inquiry. I quote two passages from it:-

"Mr Strong (who then appeared for the County Council) said that the land was registered as common land by the Council on the ground that it was included in the land shown as common land in the Tithe Award for Dalton in 1842; and it was also shown on the List prepared by the County Agricultural Executive Committee for the Royal Commission on Common Land in 1955.

He produced to me extracts from the 1842 Tithe Award showing that Elmers Green having an area of 11 acres 3 rods and 1 perch and numbered 820 on the plan thereto was described as Common Land.

I am satisfied that the unit land falls within the area numbered 820 on that plan."

"In a series of letters to the County Council written in 1973 Mrs Holloway gave an interesting (although rather garbled) historical account of her claim to land in Skelmersdale which she said included the unit land. She said that the land was left by Col. John Moore on leases for 300 years; that the Moore Estate was settled by Sir Edward Moore before he died in 1675, and that he left the land to John Moore's descendants to be inherited by them in 1934 (presumably when the 300 year Leases expired). She then gave an account of the descent through the family down from her great-grandfather, Thomas Moore, who died in 1856.

All this has nothing at all to do with whether the land is, or is not, common land. The Moore family may have a claim to ownership of the land, although this is doubtful as they are not mentioned in the Tithe Award of 1842. Accordingly I reach the conclusion that Mrs Holloway's Objection was misconceived. No-one appeared at the hearing to pursue this or any other objection to the registration; and this being so, it seems to me that I ought to confirm the registration of the land as common land."

Since that Decision nothing further has been heard concerning Mrs Holloway, her descendants, or the Moore family.

Mrs Watson told me that she lives at Smith's Farm, which lies at the north-western boundary of the Green as a whole, and which is owned by her husband, Mr R. Watson. Her husband made no claim to ownership of any part of the Green. She knew nothing about Mrs Holloway or the Moore family, and had no information concerning ownership of the unit land. She said that so far as she was aware there was no division or marking of any sort on the land separating CL.299 from CL.24.

An ownership inquiry in respect of CL.24 was held as long ago as 1972. Before writing this Decision I procured the file relating to that hearing, to ascertain whether it threw any light on the question of ownership of the Green as a whole.



In his Decision dated 27th June 1972 Mr Commissioner A A Baden Fuller said that, in the absence of any evidence by the Skelmersdale Development Corporation (which was represented before him) or by anyone else, he was not satisfied that any person was the owner of the land, and accordingly the land fell into protection under section 9 of the 1965 Act. I shall follow that decision in the present case.

On this evidence I am not satisfied that any person is the owner 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

11th

day of

May

1989

Mat Rott

Chief Commons Commissioner