



COMMONS REGISTRATION ACT 1965

Reference No. 220/D/328

In the Matter of Elmers Green Skelmersdale
and Holland

DECISION

This dispute relates to the registration at Entry No. 1 in the Land section of Register Unit No. CL.299 in the Register of Common Land maintained by the Lancashire County Council and is occasioned by Objection No. 173 made by Mrs F A Holloway and noted in the Register on 6 May 1971.

I held a hearing for the purpose of inquiring into the dispute at Rawtenstall on 20th April 1988. The hearing was attended by Mr J A Strong Solicitor of Lancashire County Council.

The unit land was registered by Lancashire County Council (the registration authority) without application pursuant to section 4(2)(a) of the Act. There are no rights registered, and there are no entries in the ownership section of the register.

Mr Strong 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. I understand that some or all of the rest of Elmers Green is already finally registered as common land under register unit CL.24.

Objection No. 173 by Mrs Holloway is an unusual one. It seems that she put in two Objection Forms, one dated 12th April 1971 and the other 1st May 1971. Only the latter was noted on the register. It was presumably considered that the first form did not show any valid grounds of objection. I am however prepared to read both forms together.

The grounds of objection stated in the first of the two forms were as follows:-
"These lands are part of the Moore Lands left by John Moore of Bank Hall Bootle Liverpool for his descendants on leases of 300 years in his wills of 1638 and 1649. Who died in Ireland in 1650 aged 50".

The grounds of objection in the second form were as follows:-

- " A. Land not common land at date of registration (entailed).
- B. Persons attempting to claim land as common have no right (entailed land).
- C. Land in question claimed by self and family (entailed land)".

Mrs Holloway signed this form:-

"Frances Amelia Holloway nee Moore
P.P Harriet Evelyn Sorensen nee Moore
P.P John Moore (nephew)".



Mrs Holloway died in or before 1977. Letters sent to her registered address were returned through the Post Office. The present occupier at that address has no knowledge of any of her successors. The County Council has been unable to trace any such persons. The usual advertisements of the hearing produced no response. No-one appeared at the hearing to support the Objection.

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.

Mr Strong very properly drew my attention to the difficulty he would be in if I required him to prove that the unit land was waste land of a manor. From the documents to which he referred me, including the Tithe Award and the Victoria County History of Lancashire, at page 97 et seq., there is some indication that Elmers Green was part of the Township (rather than the Manor) of Dalton. However the manorial history is not before me and in the absence of anyone wishing to pursue an objection on this ground I do not consider it necessary to investigate this question further.

Mr Strong also told me that the unit land is now within the area of Skelmersdale New Town; and that the only access to it is a footpath. Neither of these facts affects my decision in any way.

For these reasons I confirm the registration.

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

17th

day of

May

1988

Martin Rote

Commons Commissioner