



COMMONS REGISTRATION ACT 1965

Reference No. 220/U/47

In the Matter of Greens Moor, Bacup

DECISION

This reference relates to the question of ownership of land known as Greens Moor, Bacup being the parts of the land comprised in the Land Section of Register Unit No. CL.237 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 Mr W. Lloyd and Mr W.A. Duggleby claimed to be the freehold owners of parts of the land in question.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Rawtenstall on 19th April 1988.

The hearing was attended by Mrs S. Cunliffe of Lancashire County Council (the registration authority) Mr R. Hilditch (Chairman) and Mr W. Lloyd (Secretary) of East Lancashire Commoners Association Mr W.A. Duggleby Mr R. Ormerod and Mr B. Whitehead.

The land was registered as common land upon the application of East Lancashire Commoners Association. The registration became final on the 5th December 1986 after a hearing before Mr Commons Commissioner Morris Smith. There are 4 entries in the Rights Section, all of which have become final.

There are no entries in the Ownership Section of the Register but almost the whole of the land has been registered at H.M. Land Registry under the Land Registration Acts. There are three small parcels which are not so registered. Two of these are along the western boundary of the land. The third is a parcel shaped like the letter "U" on the north side of the land.

Mr Lloyd claimed ownership of the two parcels on the western boundary. He gave evidence that he inherited Brandwood Lower End Moor (which adjoins the western boundary of the unit land) from his Mother on her death in 1985. His Mother, Constance Priestley Hyslop, married twice. She was tenant for life under his Father's Will, and she, his brother and himself had been the trustees. His Father, William Alexander Charles Lloyd, died in 1951. He had inherited the property from his Uncle, Thomas William Lloyd in about 1908. The only deed relating to the property was dated 1713. There were no plans.

Mr Lloyd said that he himself applied for the registration of the land as common land, acting on behalf of the Commoners Association. He used the 1896 Ordnance Survey, which showed only the approximate boundaries. The two parcels he claimed were unfenced.

Mr Duggleby said that he bought Greens Farm to the north of the unit land in 1977. The farm included the U-shaped parcel on the north side of the unit land. It was fenced in as part of his farm, and had been enclosed for generations. Mr Lloyd agreed that this was so. Inspection of Mr Duggleby's deeds confirmed what he said.



Mr Duggleby asked me to remove the U-shaped parcel from the Land Section of the Register. Mr Lloyd said that this parcel had never been part of the common. Although it is included in the register map, it had not been included in the plan which he had submitted with the application for registration. It was never his intention that it should be included in the registration.

Inspection of the plan which was attached to the application confirms what Mr Lloyd said. It quite clearly does not include the U-shaped parcel within the area to which that application related. It seems reasonably apparent that when the Register Map was drawn up the boundary of the common at this point was mistakenly drawn as a straight line, instead of following the U-shape.

I have considered at length the question whether a Commons Commissioner has power after a registration in the Land Section of the Register has become final to rectify a mistake on the Register Map. Try as I might, I have found no authority under which I have power to put right such a mistake. The best I can do for Mr Duggleby is to hold that he is the owner of the U-shaped parcel.

On the evidence I am satisfied:-

- (1) That Mr Lloyd is the owner of the two parcels on the western side of the unit land;
- (2) That Mr Duggleby is the owner of the U-shaped parcel.

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

4th

day of

October

1988

Commons Commissioner