



COMMONS REGISTRATION ACT 1965

Reference No.20/U/71

In the Matter of Hapton Common,
partly in Padiham U.D. and partly
in Hapton, Burnley R.D., Lancashire

DECISION

This reference relates to the question of the ownership of land known as Hapton Common partly in Padiham Urban District and partly in Hapton, Burnley Rural District being the land comprised in the Land Section of Register Unit No.CL.14 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 the Trustees of J. C. Waddington deceased claimed to be the freehold owner 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 Preston on 20 February 1974. At the hearing Mr. D. C. Waddington and Mr. C. E. Wood were represented by Mr. J. O. R. Illingworth solicitor of Waddington & Son, Solicitors of Burnley. Mr. Illingworth said that he, Mr. Waddington and Mr. Wood claimed as trustees of the will of Mr. J. C. Waddington ("the Testator") to be joint owners.

The land ("the Unit Land") comprised in this Register Unit contains (according to the Register) 20.719 hectares (about 50 acres) in three pieces: one (the largest) is L shaped and is known as Stone Moor and Pollard Moor; the other two are separated by the railway and are together known as Bentley Wood Green. They are all large areas of grass land crossed by public highways. In the Rights Section, five rights, attached to various farms, of grazing cattle over the Unit Land have been registered; under these rights the numbers which may be grazed amount altogether to 73 head.

Mr. Illingworth in the course of his evidence produced (1) an indenture dated 31 December 1925 by which land was conveyed to the Testator (he died 7 December 1935); (2) probate dated 6 March 1936 of the Testator's will; (3) an assent dated 20 August 1965 by his personal representatives; and (4) an appointment of new trustees dated 21 August 1965. In the 1925 indenture, the land conveyed was said to contain 52.589 acres, was described in the Schedule as "Stone Moor, Pollard Moor and Bentley Wood Green and identified by a plan; the land so conveyed comprised the whole of the Unit Land and additionally a small piece which joined Pollard Moor to Bentley Wood Green and a smaller piece at the north end near Stone Moor Bottom.

Mr. Illingworth, on behalf of his firm who were solicitors to the executors and trustees of the Testator's Will, and on his own behalf as one of the trustees, had ever since shortly after the Testator's death been concerned with his estate and the trust; he confirmed the devolution of the trusteeship as it appeared in the 1965 appointment and confirmed that Mrs. H. H. Waddington and Mr. D. C. Waddington were (as recited in the 1965 assent) the executors of Mr. C. Waddington (the Testator's last surviving executor).



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Mr. Illingworth explained that the small pieces of land comprised in the 1925 indenture were no longer part of the Common: one having in 1942 been conveyed to the Minister of Aircraft Production, and the other having in 1953 been conveyed to the Urban District Council under a compulsory purchase order. He computed the remaining area to be 49.678 acres.

On the evidence outlined above, I am satisfied that Mr. Illingworth, Mr. Waddington and Mr. Wood are the owners of the land, and I shall accordingly direct the Lancashire County Council, as registration authority, to register Mr. James Osmund Rowe Illingworth of 2 Grimshaw Street, Burnley, Lancashire, Mr. David Charles Waddington of The Stables, Sabden, Lancashire and Mr. Colin Edmund Wood of 2 Grimshaw Street, aforesaid 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 1st

day of March

1974.

a. a. Baden Fuller

Commons Commissioner