



COMMONS REGISTRATION ACT 1965

Reference No. 220/U/28

In the Matter of land known as the Salt Marshes  
in the Parishes of Bolton-le-Sands and Warton

## DECISION

This reference relates to the question of the ownership of land known as the Salt Marshes in the Parishes of Bolton-le-Sands and Warton being the part of the land comprised in the Land Section of Register Unit No. CL.35 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 (i) Morecambe Bay Wildfowlers Association and (ii) Mrs Phyllis Muriel Robertson claimed to be the freehold owners of parts 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 Lancaster on 16 June 1987.

Mr J A Strong appeared for Lancashire County Council as registration authority. Mrs. E Rudkin (Chairman) appeared on behalf of Warton Parish Council. Mr Michael Bates of Bannister Bates & Son of Morecambe and Heysham appeared as agents for Fell Kilvington & Co of Kirkby Stephen for Morecambe Bay Wildfowlers Association. Mr J Day (Land Agent) appeared for Royal Society for the Protection of Birds. Mr W D Molyneux of John Whittle Robinson & Bailey Solicitors of Preston appeared for Bolton-le-Sands Parish Council. Mrs P M Robertson appeared in person.

The ownership of (i) the part of this register<sup>unit</sup> lying to the north and west of the red line C-D on the register map and (ii) the parts of this register unit lying south of the line H-I, east of the line J-K and enclosed within the line C-L on the inset maps to the register map is already finally registered.

Mr Day said that Royal Society for the Protection of Birds was successor in title to part of the first of these two areas, and was not claiming ownership of any part that was not already finally registered. Bolton-le-Sands Parish Council is already finally registered in respect of the second of these two areas.

I am only concerned with claims to the ownership of the long strip of land to the east of the line C-D on the register map, excluding the three small parcels finally registered in the name of Bolton-le-Sands Parish Council.

I have annexed to this decision a photocopy of the relevant part of the register map on which the land claimed by the Wildfowlers Association is hatched in black. To deduce title to that land Mr Bates produced to me the originals or certified copies of the following documents:

1. Abstract of the Will, Death and Probate of George Ayrton.
2. Assent dated 31st July 1954 by William Hoggarth and Hubert John Phipps Sturton in favour of George Ayrton (being the son of the former George Ayrton).



3. Conveyance dated 12th November 1976 between George Ayrton of the one part and Lynda Dianne Wiggins of the other part.
4. Conveyance dated 8th May 1981 between Lynda Dianne Wiggins of the one part and Morecambe Bay Wildfowlers Association of the other part.

The Conveyance of 1981 to the Wildfowlers Association was of a piece of marsh land near Bolton Mill being part of O S No. 257 containing 7.97 acres or thereabouts. There are clear plans all of which include this parcel annexed the Assent of 1954 and to the Conveyances of 1976 and 1981. I am satisfied that the Wildfowlers Association can make a good title to this piece of land. It is however a little difficult to identify it precisely on the register map, which is on a much smaller scale and bears no ordnance survey numbers. Nevertheless I am satisfied that the boundaries of the land claimed by the Wildfowlers Association as shown on the photocopy plan annexed to this decision corresponds with those shown on the plan to the Conveyance of 1981.

Mrs Robertson appeared in person. She said that she lived at Wild Duck Hall and claimed ownership of the adjoining salt marshes. She mentioned litigation, the title to which I understood to be *Bargh v Brailsford*, and said there had been a conveyance to Mr Bargh, and that the Executors of William Bargh were her predecessors. She had not brought her deeds with her. They were in the custody of her Solicitors in London, Messrs. William Sturges Trotter & Co. Mr Strong said that ownership of part of the land claimed by Mrs Robertson was already finally registered.

I allowed Mrs Robertson 28 days in which to instruct her Solicitors to produce her title deeds at the office of the Commons Commissioners.

Nothing was heard from these Solicitors until after the Clerk to the Commissioners had written a letter of enquiry to them on the 12th August 1987. A reply dated 13th August was received confirming that Messrs. Williams Sturges & Co did act for Mr and Mrs Ian Robertson, that they held the deeds, and would write further. On the 28th August they sent a further letter enclosing a photostat copy, certified by them, of a Conveyance dated 14 November 1984 in favour of Ian Robertson and Phyllis Muriel Robertson.

This is a Conveyance on sale by two vendors conveying as trustees of several parcels of land "belonging to" or "situate at" Wild Duck Hall Bolton-le-Sands. After the first two parcels described, the parcels clause continues as follows:-

"and thirdly all that the estate and interest that the Trustees may have in the land and rights hereinafter mentioned namely a strip of land co-extensive with the land hereby conveyed at Wild Duck Hall aforesaid for a distance of 150 yards out to sea and being part of the marsh known as Bolton-le-Sands Marsh (which adjoins the land hereby conveyed and also Wild Duck Hall on the seaward side) but subject to any rights of pasturage or other rights over the said strip of land which may now subsist". This land was identified on the plan annexed thereto and edged blue thereon. I have marked this land (by way of identification) edged with a thick black line on the plan annexed to this Decision. It will immediately be seen that ownership of the westerly part of this land is already finally registered in the names of others persons. Perusal of the ownership section of the register shows such registration became final on the 6th August 1980, long before the date of the Conveyance to Mr and Mrs Robertson in 1984.



It remains to be considered whether the Robertsons can establish a good claim to ownership of the rest of the land thirdly described in the Conveyance of 4th November 1984. By itself such Conveyance is clearly not a sufficient root of title, and earlier deeds require to be produced. Furthermore that Conveyance is only in respect of such estate and interest as "the Trustees may have in the land", and further evidence, either by statutory declaration or orally, would be required to establish that the title which the Robertsons acquired is in fact a freehold title.

These defects were pointed out to Messrs. William Sturges & Co by letter dated the 4th September 1987 from the Commons Commissioners, and they were invited to submit further evidence of title. Since that date, despite reminders dated 25th September and 20th October 1987, nothing further has been heard from these Solicitors.

In the circumstances I do not propose to delay issuing this Decision any longer. If however Mr and Mrs Robertson still wish to pursue their claim, I shall allow them four weeks from the date on which this Decision is sent to them or their Solicitors in which to apply to the Commons Commissioners for the hearing to be restored, either in Lancashire or in London.

On this evidence I am satisfied that Morecambe Bay Wildfowlers Association are the owners of the part of the unclaimed land shown hatched black on the plan annexed to this Decision and I shall accordingly direct the Lancashire County Council to register that Association as the owner thereof under section 8(2) of the Act of 1965.

I am not satisfied that any person is the owner of the remainder of the unclaimed land and it will therefore remain subject to protection under section 9 of the Act.

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 4<sup>th</sup> day of February 1988

Mati Roth

Commons Commissioner

Reference No.

220/028

This is the plan referred to in  
my decision dated

4<sup>th</sup> February  
1989

*Marti Roth*

Commons Commissioner

KEER CILANES

CL2

473

CL23

CL124

CL160

MABMA<sup>2</sup> ROBERTSON

WILDFOWLERS ASSOCIATION

CL 352

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Sandy

