



In the Matter of O S No. 191, Newton-On-Trent,
Lincolnshire

DECISION

This reference relates to the question of the ownership of land known as O S No. 191 Newton-on-Trent, being the land comprised in the Land Section of Register Unit No. CL.117 (L) in the Register of Common Land maintained by the Lincolnshire 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 Newton-on-Trent Parish Council 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 Lincoln on 11 November 1981.

There was no appearance at the hearing, so I gave a decision accordingly.

I decided to set aside my decision and reopen the hearing on an application made by the Newton-on-Trent Parish Council under regulation 21 of the Commons Commissioners Regulations 1971.

I reopened the hearing at Lincoln on 22 November 1983. On this occasion the Parish Council was represented by Mr M J Grimes, its Chairman.

The Parish Council has received rent for the land in question without any adverse claim for a sufficient period to have acquired a possessory title. I was informed that most of the land is being acquired by the Lincolnshire County Council for road works, but that no conveyance has yet been executed, although the land to be given in exchange has been agreed. However, until the land has been conveyed to the County Council, the ownership remains unaffected by these negotiations.

The Solicitors advising the Parish Council very fairly pointed out in a letter addressed to the Clerk to the Commons Commissioners that the case might be affected by the judgment of the Court of Appeal in Corpus Christi College, Oxford v Gloucestershire County Council (1982) 3 WLR 849, where it was held that in a case (such as the present) in which there was no registration in the Rights Section of a register unit, the effect of section 10 of the 1965 Act is that the land registered as common land must be conclusively presumed to be waste land of a manor within the meaning of Section 22 (1) (b) of the Act. The matter in issue in that case was the validity of the registration in the Land Section of the register unit, so the Court of Appeal did not have to consider the effect of the registration on the ownership of the land. It is, however, arguable that the case could be regarded as authority for the proposition that the only person who could be registered as the owner of the land would be the lord of the manor. I find it difficult to believe that Parliament intended that a registration of land as common land under the Act of 1965 could have the effect of transferring to the lord of a manor the ownership of land to which somebody else had a good title before the registration. However, it does not appear to me to be necessary to consider this interesting and possibly difficult point in this case.



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Here there is no claim by a person claiming to be the Lord of a manor in which this land is situate. The evidence before me is consistent with the lordship of the manor being in the Parish Council, even though no evidence of that fact is available. In this case it is also possible that the Parish Council acquired a possessory title after the land was registered on 5 January 1970. This is sufficient to enable me to say that on the evidence before me I am satisfied that the Parish Council is the owner of the land, and I shall accordingly direct the Lincolnshire County Council, as registration authority, to register the Newton-on-Trent Parish Council as the owner 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

29~~th~~

day of

November

1983

A handwritten signature in cursive script, appearing to read 'G. D. L. Quilley'.

Chief Commons Commissioner