



COMMONS REGISTRATION ACT 1965

Reference No. 225/U/216

In the Matter of Bintree Gravel
Pits, Bintree, Breckland District,
Norfolk

DECISION

This reference relates to the question of the ownership of land known as Bintree Gravel Pits, Bintree, Breckland District being the land comprised in the Land Section of Register Unit No. VG 140 in the Register of Town or Village Greens maintained by the Norfolk 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 no person claimed to be the freehold owner of the land in question and no 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 Norwich on 4 April 1979. At the hearing Breckland District Council were represented by Mr S Glossop, their Solicitor.

This registration was made on the application of Bintree Parish Council. The land ("the Unit Land") according to a modern OS map produced by Mr Glossop contains 2.271 acres and is about a mile to the southwest of Bintree.

There were produced from the County Archives: (a) the Bintry and Twyford Inclosure Award dated 1797 (on skins without last page but with map), and (b) a bound book of inclosure awards which included the said Award (without the map). The Award was made under the Bintry and Twyford Inclosure Act 1795 (35 Geo.3.c.17). I identify the Unit Land with that by the Award allotted as follows:- "... allott unto the present Surveyors of the Highways within the said parish of Bintry and to their Successors for ever ONE PIECE of Land (part of the said Commons and Waste Grounds in Bintry aforesaid) containing by measure two acres bounded ... AND WE do hereby declare that the land comprized in the last allottment hath been and is by us set out and allotted as and for a public Land, Gravel and Stone pit and to the intent that the same shall and may for ever hereafter be used by the Surveyors of the Highways and by the proprietors of Lands and Estates within the said parish of Bintry and their Tenants in such manner and under such Rules and Regulations as the Lord of the said Manor of Hastings (?) Bintry in Bintry and Twyford, the Rector, Churchwardens, and Overseers of the poor, and Surveyors of the Highways, within the said parish of Bintry for the time being or the Major part of them shall direct or appoint and not otherwise ...".

Mr Glossop said that the Unit Land is now let by the District Council to a local farmer (Mr Garrod of Manor Farm) at a yearly rent of £1, and that it has been so let since some time before 1972 at least. He referred me to Local Government Act 1894 sections 25 and 67 (Mitford and Laundritch Rural District Council were constituted by such Act), Local Government Act 1929 section 30, Local Government



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Act 1933 sections 165 and 166, Highways Act 1959, and Local Government Act 1972 sections 131(3) and 210(2)(d); he contended that as a result of these statutory provisions the legal estate in the Unit Land is now vested in the District Council (as successor of the RDC) and that they hold the equitable estate as "parish property", so in the result they hold the legal title for the benefit of the Parish of Bintree. Reference was also made to C Arnold-Baker on Local Council Administration (1975) page 110.

On this reference I am concerned only with the legal estate in the Unit Land see 1965 Act sections 8 and 22. The effect of the Acts above referred to on that estate, depends to some extent on the circumstances relating to the Unit Land when these Acts came into operation; of this I have no evidence. It seems to me therefore that I ought not, more than I must, express any opinion as to the effect of these Acts, particularly as Mr Glossop pointed out, it is doubtful whether the Unit Land should have been registered at all under the 1965 Act. For my purpose it is enough, under the Acts referred to, legal estates in the Unit Land must be either in the County Council, or the District Council or the Parish Council. *L* The absence of any evidence by the County Council or the Parish Council, having regard to the present possession of the District Council, I consider I ought to presume that the Acts took effect in relation to the Unit Land in such a way that such possession is now lawful. I am therefore satisfied that the District Council are the owners of the Unit Land and I shall accordingly direct the Norfolk County Council, as registration authority, to register Breckland District Council 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 21st - day of June - 1979

a. a. Barker Fuller

Commons Commissioner