



COMMONS REGISTRATION ACT 1965

Reference Nos. 225/U/13  
225/U/14

In the Matter of (1) land covered by water (part of the River Bure) and (2) land east of the River being Drabblegate Common, both in Aylsham, Broadland District, Norfolk.

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DECISION.

These references relate to the question of the ownership of (1) land covered by water, being part of the River Bure east of the middle line and west of O.S. map parcel No. 838, and (2) land known as Drabblegate Common on the east side of the said River and being or including the said parcel No.838 (containing 6.25 acres), all in Aylsham, Broadland District being the lands comprised in the Land Section of Register Unit (1) No. CL.382 and (2) No. CL.101 respectively in the Register of Common Land 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 lands in question and no person claimed to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at Norwich on 16 July 1975. At the hearing Miss Dorothy Mary Purdy was represented by Mr. T. Purdy Solicitor of Purdy & Holley, Solicitors of Aylsham. He also represented Mrs. Winifred Amy Mileham on whose application Entry No.4 was made in the Rights Section of Register Unit No. CL.101, and Mr. David Clarke of Erpingham Lodge, Ingworth, Norfolk as owner of the Manor House known as Abbot's Hall situate just to the north of these lands. Present also was Mr. B.H. Davies on whose application Entry No.2 was made in the said Rights Section.

Clarke & Sons, Solicitors of High Wycombe in a letter dated 11 June 1975 said that their client Mrs J.C. Clarke of Erpingham Lodge acquired the Abbot's Hall Estate by a conveyance dated 11 October 1974 by which there were assigned to her all rights of grazing, sporting and fishing registered by the late Dr. S. Shephard over these lands.

The land ("the CL.101 Land") comprised in Register Unit No. CL.101 is in three pieces. One piece ("the Largest Piece") is bounded on the west by the River and elsewhere, except on its short northwest side by drains. There are no bridges, so except across its northwest side it is inaccessible except by boat. Along its northwest side there is a well constructed fence with 2 gates; these can only be reached from the road by walking for some distance over the lands, on the north farmed by Mr. Clarke. Being deterred by the drains behind these gates, I never put foot on the Largest Piece; maybe, those who applied for the registration in the Rights Section would have no difficulty. Of these rights No.7 (made on the application of Dr. S. Shephard) is attached to Abbot's Hall Farm to graze 65 head of cattle over the Largest Piece (not the 2 other pieces); the others, Nos 1 - 6 are attached to various properties to graze each 1 horse, 1 cow and 2 sheep/goats over the whole



of the CL.101 land. As far as I could see the Largest Piece appears to be impenetrable rushes or other marsh or aquatic vegetation, possibly intersected by drains, but I suppose those who know could find ways through. As to the ownership (being the only aspect with which I am concerned), the Largest Piece is I think extraordinary, not at all like what most people would suppose merely by looking at a map and the registrations summarised above. The other two pieces are strips, one between the Largest Piece and the public motor road, and the other adjoining on the south between the River and the road; they are open to the road, and therefore easily accessible; on them there is some grass and some scrub.

The land ("the CL.382 land") has been registered as common land in consequence of the registration of a "Right of fishing (Common of Piscary)" on the application of Dr S. Shephard. The Rights Section contains no other Entries

Mr. Purdy in the course of his evidence produced: (1) an assent dated 4 December 1973 by which he and Miss Purdy as personal representatives of Mrs. N.J. Purdy ("the Testatrix"; his mother, she died 19 July 1958) assented to the vesting in Miss Purdy of "ALL that the Manor or Lordship of Aylsham Wood or reputed Manor..." in fee simple; (2) a conveyance ~~dated~~ dated 26 July 1919 by which Mr. R.S. Coperson conveyed to the Testatrix "all that the Manor or Lordship of Aylsham Wood"; and (3) a History of Aylsham (printed 1960) by Dr. John Sapwell in which he says (referring to this Manor); "The only remaining portion of the manor lands is about 6 acres of common in Drablegate lying between the River and the Road on which local residents still have the right to graze their livestock, although the land is liable to flooding, is overgrown with rushes and is now practically valueless.

Mr. Purdy said (in effect):- He imagined that the reason why his mother in 1913 purchased the Manor was to enable his father, a solicitor, to act as Steward and collect the quit rents. The Court Rolls are now in the County Library, but he still had some of the Manorial documents. The history books told something of the Manor (he produced a short summary). His father told him that the CL.101 Land belonged to the Manor. Mr. Clarke is content for Miss Purdy to be found the owner; but if she is not, he claims ownership by virtue of his ownership of Abbots Hall and most of the surrounding land. He agreed with Mr. Davies that the cottagers had been paid rent by persons who grazed cattle on the Common and who were not cottagers (e.g. Dr. S. Shephard). (Mr. Purdy)

Mr. Davies said (in effect):- The common rights are restricted to people who live in cottages adjoining the Common (these are cottages opposite the CL.101 Land on the other side of the motor road). He disputed Mr. Clarke's ownership claim, although he did own some of the cottages.

I can I think give full weight to the statement by Dr. Sapwell quoted above from his book; the registration of the CL.101 Land was made by the Parish Council while he was their chairman. From the book and from what Mr. Purdy said I conclude that the CL.101 land has at all relevant times been reputed to belong to the Manor and accordingly by section 6 of the Conveyancing Act 1881 and section 62 of the Law of Property Act 1925, its ownership passed to Mrs. N.I. Purdy under the 1919 conveyance and to Miss. Purdy under the 1973 assent.



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The CL.382 land is the part of the bed of the River which abuts on the CL.101 Land. In the absence of contrary evidence (of which I have none) the bed of the river up to its middle line is presumed to be in the same ownership as the land adjoining.

For the above reasons I am satisfied that Miss Purdy is the owner of the lands, and I shall accordingly direct the Norfolk County Council, as registration authority, to register Miss Dorothy Mary Purdy of Greenways Hindolveston Road, Foulsham, Norfolk, 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 21st — day of August 1975.

a. a. Baden Fuller

Commons Commissioner.

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