



In the Matter of Snettisham Common, Snettisham,
Norfolk

DECISION

This reference relates to the question of the ownership of land known as Snettisham Common, Snettisham, being the land comprised in the Land Section of Register Unit No. CL 64 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 the Snettisham 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 King's Lynn on 29 June 1977.

At the hearing the Parish Council was represented by Mr P H Rippon, solicitor.

The land comprised in the Register Unit consists of two parcels numbered 3 and 5 respectively in the Snettisham Inclosure Award, dated 8 April 1857, made under the Acts for the Inclosing, Exchanging, and Improvement of Land.

Parcel No 3 was allotted to the Churchwardens, the Overseers of the Poor, the Surveyors of the Highways, and the Guardians of the Poor of the parish of Snettisham to be held by them and their successors in trust as an allotment for the use of the persons entitled to dig sand, clay, and gravel in the lands to be inclosed.

Parcel No 5 was allotted to the Churchwardens, Overseers, Surveyors, and Guardians to be held by them and their successors in trust as an allotment for the use of the persons entitled to cut fuel on the lands to be inclosed.

The names of the persons entitled to the benefit of each of these allotments were set out in a schedule with the number of houses for which each of them was entitled to dig sand, clay, and gravel or to dig (sic) fuel, as the case might be. There being no evidence before me that any of these persons was an inhabitant of the parish of Snettisham, I came to the conclusion that there had been no transfer of the property by virtue of section 6 of the Local Government Act 1894 or article 4 of the Overseers Order 1927 and that the land was therefore vested in the Churchwardens as the sole surviving trustees.

After I had given my decision Mr Rippon asked for an opportunity to adduce evidence that some of the persons named in the award were inhabitants of the parish. There being no other claimant to the ownership, I decided to set aside my decision and reopen the hearing, so that Mr Rippon could have an opportunity of adducing further evidence.

I reopened the hearing at King's Lynn on 13 January 1978.

Mr Rippon adduced evidence which satisfied me that most of the persons named in the award were resident in the parish of Snettisham at the time the award was made.



While it would appear that the persons named in the award were so named because they were the owners of certain houses to which rights had formerly been attached and did not constitute the whole body of inhabitants of the parish, I have come to the conclusion, though with some hesitation, that the land in question consists of allotments for the benefit of the inhabitants "or any of them". Therefore the land fell within section 14(1) of the Local Government Act 1894 (now replaced by section 37 of the Charities Act 1960) as property held by trustees for the purposes of allotments for the benefit of the inhabitants of a rural parish or any of them. Since the power to transfer the property to the Parish Council under that section has never been exercised, it is necessary to ascertain who are the present trustees of the charity.

Although there was no evidence of the fact, it is highly likely that the Surveyors of Highways were replaced by a Highway Board under the Highways Act 1862. In that event, the new Board would have succeeded to the trusteeship by virtue of section 11 of the Act of 1862. It is not, however, necessary to pursue this point, because by virtue of section 25(1) of the Act of 1894 the powers, duties and liabilities of whichever highway authority was responsible for the highways in the parish of Snettisham were transferred to the new Rural District Council.

Section 6(1)(c)(iii) of the Act of 1894 transferred to the Parish Council the powers, duties, and liabilities of the Churchwardens and Overseers with respect to this property, so that after the coming into operation of the Act of 1894 the trustees were the Parish Council, the Rural District Council, and the Guardians of the Poor, in whom the property was vested by section 67 of that Act.

This position continued without alteration until the Guardians of the Poor ceased to exist and their functions were transferred to the Norfolk County Council by virtue of section 1 of the Local Government Act 1929. Although by section 113 of that Act the property of poor law authorities was transferred to county councils, special provision was made in respect of parish property by section 115(1)(b), by virtue of which the interest of the Guardians in the land comprised in the Register Unit was transferred to and vested in the Parish Council.

By section 30(1) of the Local Government Act 1929 the Rural District Council ceased to be a highway authority and its functions under the Highway Acts 1835 to 1885 were transferred to the County Council, but the proviso to that sub-section excluded from the transfer all functions not being functions with respect to highways exercisable by the Rural District Council as successor to surveyors of highways or highway boards. The functions of the Rural District Council with respect to this land, although inherited from the Surveyors of Highways, were not functions with respect to highways, so that the Rural District Council's interest in the land was not transferred to the County Council under section 117 of the Act of 1929.

It therefore follows that the Rural District Council remained one of the trustees until it was abolished by the Local Government Act 1972 on 1 April 1974. This land, being property held for the benefit of a particular class or body of persons in the parish of Snettisham, it is necessary to consider whether it has become vested in the West Norfolk District Council by virtue of section 210(2)(d) of the Act of 1972. Sub-section (2), however, does not refer to property generally, but to "the property". It is only possible to give a meaning to the expression "the property" in sub-section (2) by referring back to sub-section (1) of the section. Sub-section (1) applied where, immediately before 1 April 1974, any property was held, as sole trustee, by an existing local authority, in which case it was to vest in a new local authority in accordance with sub-sections (2) to (5). The Rural District Council did not hold this land as sole trustee, so it follows, in my view, that the provisions of section 210(2) have no application to this case. There appears to be no provision



in the Act of 1972 dealing with a case in which an existing local authority held property as a joint trustee, so the abolition of the Rural District Council has left the Parish Council as the sole trustee.

For these reasons I am satisfied that the Parish Council is the owner of the land, and I shall accordingly direct the Norfolk County Council, as registration authority, to register the 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

21st

day of

June

1978

CHIEF COMMONS COMMISSIONER