



COMMONS REGISTRATION ACT 1965

Reference No.25/U/68

In the Matter of the Gravel Pit,
Weybourne, Erpingham R.D., Norfolk

DECISION

This reference relates to the question of the ownership of land known as the Gravel Pit, Weybourne, Erpingham Rural District being the land comprised in the Land Section of Register Unit No. CL.153 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 Erpingham Rural District Council claimed to be the freehold owners 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 Norwich on 14 June 1973. The hearing was attended by Erpingham Rural District Council who were represented by Mr. A. Marson their clerk.

The land ("the Unit Land") comprised in this Register Unit measures (as I scale the Register map) about 150 feet by 90 feet; it is situate in or near Sandy Hill, Weybourne Heath on the east side of the road between Weybourne and Bodham.

Mr. Marson who has been clerk of the Council for the last 18 years, gave evidence. The Unit Land is a marl pit, which has been partly excavated for sand and gravel, and is now mostly overgrown by gorse. He knew of no other claim of ownership. When writing the letter dated 15 February 1973 claiming ownership on behalf of the Council, he thought that the Unit Land had been allotted to the Surveyors of Highways, under the Sheringham and Weybourne Enclosure Award 1811, but had since been unable to find any mention of it in the Award. He produced to me a manuscript book ("the Book") of plans entitled "Erpingham Rural District Council: Surveyors Lands", and containing five pages on each of which was delineated a number of different pieces of land. He identified the Unit Land as part of one of these pieces so delineated and marked "1a. Or. Op." The other pieces of land delineated in the Book were marl pits and other miscellaneous pieces of land in the Rural District, such as might have been allotted to the Surveyors of Highways under Inclosure Awards, or have been otherwise acquired by them for highway purposes. The Book was among the Council's papers when Mr. Marson first became clerk, and then appeared to be of some age. There was nothing in the book to identify the individual who compiled it, and he (Mr. Marson) could give no other information about it.



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If the Unit Land was before the Local Government Act 1894 vested in the Surveyors of Highways for Weybourne for any purpose, it would by sections 25 and 67 of the Act (stating the effect of the sections shortly) have thereby vested in the Rural District Council for the same purpose.

By section 8(2) of the 1965 Act, before I can direct the registration of any person as owner of common land, I must be "satisfied that (the) ... person is the owner of the land". The standards of proof applicable under the section are I think those appropriate to the subject matter: ownership of land; see Blyth v Blyth 1966 1 All E. R. 524 at pages 536 and 541.

Applying such standards, the evidence as set out above, is not enough. The Book may have been made after a full inquiry as to the lands owned by the Overseers and may have been intended as a definitive statement of the lands which passed under the 1894 Act to the Council; but equally it may have been made after little consideration as a basis for discussion. I know nothing of the person who made the Book or of the use made of it. I cannot be "satisfied" as to the ownership of the Unit Land merely because it may be in the public interest that it should be owned by the Council or because from its appearance and from the absence of any other claim before me it is possible that it was at one time parish property in the popular sense of the expression and may therefore (because the sand and gravel may have been used for repairing the roads) have somehow become vested in the Overseers.

For the above reasons I am not satisfied that the Council or any other person is the owner of the land and it will therefore be subject to protection under section 9 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 28th day of September 1973.

a. a. Baden Fuller

Commons Commissioner