



COMMONS REGISTRATION ACT 1965

Reference No. 25/U/8

In the Matter of The Market Place
East Harling, Norfolk.

DECISION

This reference relates to the question of the ownership of land known as The Market Place, East Harling, being the land comprised in the Land Section of Register Unit No. C.L.24 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 East Harling 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 Norwich on 24th February 1972.

That the land in question in this reference is known as the Market Place affords no assistance in discovering who is its owner, for the grant of a franchise of a market has nothing to do with the ownership of the land on which the market is held by the person to whom the franchise is granted: see per Brett, M.R. in Att.-Gen. v. Horner (1884), 14 Q.B.D. 245, at p.254.

The case for the Parish Council was presented by Mr. S.J. Plumbly. Mr. Plumbly frankly admitted that he did not know who owned the Market Place. He said that the Parish Council had spent money on its upkeep since 1953 and had received the rent paid by the Post Office for a telephone kiosk since 1954.

This is slender evidence on which to base a claim to a possessory title. Nevertheless, in such cases the nature of the property in question must be looked at: see Williams Brothers Direct Supply Ltd. v. Rafferty [1958] 1 Q.B.159. In this case the only beneficial enjoyment of the land has been the receipt of the rent by the Post Office. The receipt of this rent by the Parish Council has been inconsistent with the rights of any previous owner and amounted to adverse possession as against any such owner. It has continued for nearly 20 years. No other person has claimed the ownership during that period. Having regard to all the circumstances of the case, there is nothing to rebut this prima facie evidence of seisin in fee.

For these reasons I am satisfied that the Harling 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.

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



301

-2-

notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 30th day of May 1972

A handwritten signature in cursive script, appearing to read 'Cyril Lapin', written in black ink.

Chief Commons Commissioner