



COMMONS REGISTRATION ACT 1965

Reference No. 225/U/199

In the Matter of the Recreation Allotment,
Colkirk, Breckland District, Norfolk

DECISION

This reference relates to the question of the ownership of land known, or formerly known as the Recreation Allotment, Colkirk, Breckland District being the land comprised in the Land Section of Register Unit No. VG 165 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 (1) Colkirk Parish Council said (their clerk's letter of 21.10.75) that the land in question was exchanged for a similar enclosure of arable land situated on the Whissonsett Road being part of OS No. 137 and is now in the ownership of Colkirk Farms Ltd as from 6 October 1950; and (2) Mr and Mrs D C Higson claimed (their solicitors' letter of 3 February 1976) to be the freehold owners of the land, explaining that Colkirk Farms Limited had been tenants since about the year 1950. 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 4 April 1979. At the hearing Mrs R L Higson was represented by Mr D C O'Neil solicitor of Hood, Vores & Allwood, Solicitors of Dereham.

Mr O'Neil in the course of his evidence produced: (1) a deed of exchange dated 6 October 1950 between Mr E Cave and Colkirk Parish Council by which, after reciting (among other things) an award dated 9 March 1870 by which the said land was awarded to the churchwardens and overseers of the poor of the parish of Colkirk in trust as a place for exercise and recreation for the inhabitants of the said parish and neighbourhood, and an order of the Minister of Education dated 21 September 1950 approving the exchange thereby made, it was witnessed (among other things) that the Parish Council conveyed the land to Mr Cave; (2) a conveyance dated 1 December 1950 by which Mr Cave conveyed to Mrs C L Cave and Mr W N Baker (among other lands) the said land upon trust for sale and upon the trust of a declaration of trust of 21 July 1950; (3) a deed of appointment of new trustees dated 6 August 1966 by which Mr D C Higson was appointed in the place of Mr W N Baker a new trustee of the said trust; and (4) a conveyance dated 15 September 1971 by which Mrs C L Cave and Mr D C Higson conveyed to Mrs R L Higson (among other lands) the said land.

Mr O'Neil said that he knew the land, and it is now not recognisable, being part of a larger field.

It may be that having regard to the 1950 deed of exchange, this registration should not have been made. However this may be, having been undisputed, it has become final; so on this reference I have not, and as far as I know could not on any other



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reference which could now be made to me, any jurisdiction to avoid it. On this reference I am concerned only with ownership; as to this, the evidence above summarised I am satisfied that Mrs Higson is the owner of the land and I shall accordingly direct the Norfolk County Council as registration authority to register Mrs Ruth Louise Higson of Maulkins Hall, Pakenham, Bury St Edmunds, Suffolk 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 23rd day of April —

1979
a. a. Baden Fuller

Commons Commissioner