



COMMONS REGISTRATION ACT 1965

Reference No.25/U/45

In the Matter of Tuttington Green,  
Tuttington and Burgh, Norfolk.

DECISION

This reference relates to the question of the ownership of land known as Tuttington Green, Tuttington and Burgh, being the land comprised in the Land Section of Register Unit No.VG 37 in the Register of Town or Village Greens maintained by the former 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 Mr E.R.W.Brooks 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 April 1975.

At the hearing Mr Brooks was represented by Mr C.M.Brown, solicitor, and Mr T.Purdey, solicitor, appeared on behalf of the Tuttington and Burgh Parish Council.

The land the subject of the reference is bounded on the east, south, and west by land forming part of Chapel Farm belonging to Mr Brooks and on the north by Thieves Lane, to which it lies open and unfenced. Mr Brooks purchased Chapel Farm in 1948 and has farmed it himself ever since.

When Mr Brooks purchased Chapel Farm the land in question was overgrown and had in it a pit containing water. Soon after taking possession of Chapel Farm Mr Brooks began to improve the land in question by draining, filling, and levelling it. He completed the work about three months ago. He also put in a concrete roadway to afford access to his piggeries and estimates that he has spent about £300 on the land over the years. From about 1952 Mr Brooks has been keeping agricultural implements on the land. No one has disputed the use which he has made of the land, save only that the Parish Council complained about the dumping of some derelict implements and asked Mr Brooks to remove them. Mr T.A.Griggs, the Chairman of the Parish Council, said that the complaint related solely to the derelict implements and not to the implements which Mr Brooks was using in his farming operations.

Mr Purdey called as witnesses a number of local residents, most of whom had known the land for well over 50 years. Their evidence was mainly directed towards showing that the inhabitants of Tuttington had indulged in lawful sports and pastimes on the land, as to which there is no dispute. I could find nothing in their evidence that the Parish Council had ever exercised any possessory rights or had any other dealing with it apart from asking Mr Brooks to keep it tidy. I find that in doing that the members were concerned to protect the amenities of the village and not to protect any legal right of the Council.



Mr Griggs suggested that the reason for the lack of objection by the Council to Mr Brooks's activities may have been that all the members of the Council were resident in Burgh. I can only say that the rule usually expressed in the maxim Vigilantibus non dormientibus jura subveniunt is as applicable to a local authority as to anyone else.

I have come to the conclusion that there is no evidence that the Parish Council has ever had any legal estate in this land and that the title of whoever owned it before 1948 has been extinguished by Mr Brooks's adverse possession.

On this evidence I am satisfied that Mr Brooks is the owner of the land, and I shall accordingly direct the Norfolk County Council, as registration authority, to register him 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 1st day of May 1975

Chief Commons Commissioner