



COMMONS REGISTRATION ACT 1965

Reference No 225/U/201

In the Matter of Weasenham Village
Green, Weasenham, St Peter,
Breckland District, Norfolk

DECISION

V G. 171

This reference relates to the question of the ownership of land known as Weasenham Village Green, Weasenham St Peter, Breckland District being the land comprised in the Land Section of Register Unit 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 no person claimed to be the freehold owner of the land in question and no 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 Weasenham St Peter Parish Council on whose application the registration was made, were represented by Mr R P W Chapman their chairman.

Mr Chapman produced an extract from the Weasenham Inclosure Award dated 7 July 1809 (the original was later produced from the County Archives) and made under the Weasenham All Saints St Peter and Wellingham Inclosure Act 1806 (46 Geo 3 Chap. 47) which contained an allotment:- "... unto the said Thomas William Coke as Lord of the said Manors of Weasenham, Easthall, Northall Kipton and Castleacre in Weasenham and to the said Vicar Churchwardens and Overseers of the Poor of the said Parishes of Weasenham All Saints and Weasenham St Peter and his and their successors for the time being forever one piece or parcel of land being common pasture situated in the said parish of Weasenham St Peter stated in the said first mentioned Act to contain about three acres but in fact containing by measure six Acres bounded by the Kings Highway leading from Fakenham to Swaffham towards the south by premises of the said Thomas William Coke Francis Gunton and others towards the east by the Vicarage House and Homestead and by premises of the said George Marquis of Townshend towards the West and extending towards the North as far as a certain piece of Water called Lamberts Bit and WE DO HEREBY CERTIFY AND DECLARE that the said last mentioned allotment is so ~~left~~ to the said Thomas William Coke and to the said Vicar Churchwardens and Overseers of the Poor in Trust and to the intent and purpose that the said last mentioned parcel of land with the Bits of water thereon may for ever hereafter continue to be used as and for public watering places for Cattle belonging to the inhabitants of the said Parishes of Weasenham All Saints and Weasenham St Peter and as and for Common Pasture for Geese only and that the proprietors of every common right Messuage Cottage or Tenement within the said Parishes of Weasenham All Saints and Weasenham St Peter and their tenants respectively for the time being shall be entitled to keep and pasture thereon one gander and two brood geese with their following brood and that such followers shall not be kept or depastured thereon between the first day of November and Old Candlemas day and that such Common rights Owners or their Tenants for the time being respectively putting, keeping or depasturing any greater number than one Gander and two brood



Geese thereon for and in respect of each Common Right house or continuing to feed and depasture their followers thereon between the said first day of November and Old Candlemas day shall forfeit and pay at and after the rate of one shilling per head for the same to the Vicar Churchwardens and Overseers of the Poor of the last mentioned parishes for the use and benefit of the several other persons having rights to pasture Geese on the said green to be equally divided amongst them".

The land ("The Green") in this Register Unit according to the Register Map comprises OS Nos 52, 53 and 54 and a part OS No 39 amounting altogether to 4.922 acres. Mr Chapman, who has lived in the parish for 22 years said (in effect):- The Green has been registered as a charity with the Charity Commissioners (No 244939 dated 12 October 1965 and is locally considered to belong to the Weasenham Charities administered by a body of Trustees consisting of the Lord of the Manor (at present Major R L Cooke) and two representatives nominated for 3 years by each of the two Parish Councils (Weasenham St Peter and Weasenham All Saints); when there was a resident Vicar he was included. He (Mr Chapman) has been one of the trustees for the last 15 years and is now their chairman. The Green is a grass area kept in order by the inhabitants of the Village, the bulk of whom reside in houses around The Green.

The above quoted allotment closely follows the wording of one of the sections of the 1806 Act. On the evidence summarised above I consider The Green as registered under the 1965 Act (although it seems to be a little smaller than the land dealt with by the 1809 allotment) is still subject to the trust thereby declared; I am therefore satisfied that it is owned by the Trustees of such trust.

The position is however complicated because under the 1965 Act I am concerned only with the ownership of the legal estate in fee simple (see Section 22) and I have insufficient information to determine how such legal estate has devolved having regard to the modernisation of the law relating to such estates effected by the Law of Property Act 1925. Although it is likely that this estate, because two councils and two localities are interested, either has been or could with some advantage be vested in the Official Custodian for Charities I have no evidence that any such vesting was ever effected: and it may be because there has been and is never likely to be any need to deal with the legal estate, the identification of the persons in whom such estate is now vested would serve no useful purpose.

In these circumstances I consider that I can treat Section 8 of the 1965 Act as allowing me to say that I am satisfied with the ownership of persons if I can describe them as the trustees of an identifiable trust notwithstanding that I do not know their names.

On the above considerations I am satisfied that the trustees of the trust set out in the above quoted allotment are the owners of the Green and I shall accordingly in pursuance of Section 8(2) of the Act of 1965 direct the Norfolk County Council as registration authority to register as owners of the land the trustees of the trust declared by an award dated 7 July 1809, made under the Weasenham All Saints St. Peter and Wellingham Inclosure Act 1806, concerning the piece of land therein said to contain by measure six acres, ~~whereby~~ being a trust for the use of such piece as and for public watering places for cattle and as and for common pasture for geese only as therein more particularly set out.



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 18th - day of May 1979

a. a. Baker Fuller

Commons Commissioner