



COMMONS REGISTRATION ACT 1965

Reference Nos: 225/D/3
225/D/4
225/D/5
225/D/6

In the Matter of Wood Lane, Furlong Drove,
Orton Dam Drove, Romer Drove, Barkers Drove,
Littlemans Way and River Wash, all in Stoke
Ferry, South Norfolk District, Norfolk.

DECISION

Two of these four disputes (D/3 and D/4) relate to the registration at Entry No.1 in the Land Section of Register Unit No.CL.331 maintained by the Norfolk County Council, and are occasioned by Objection No.334B made by Mrs Emily Louise Brown and noted in the Register on 2 February 1971 and by Objection No.391 B and made by Mr Randle Robson and Mrs Frances Emily Robson and noted in the Register on 4 September 1972, and the other two of these four disputes (D/5 and D/6) relate to Entry No.1 in the Ownership Section of the said Register Unit and are occasioned by Objection No.333 B also made by Mrs Brown and noted in the Register on 22 March 1971 and Objection No.392 B also made by Mr and Mrs Robson and noted in the Register on 4 September 1972.

I held a hearing for the purpose of inquiring into these disputes at Norwich on 15 July 1975. At the hearing, Mr and Mrs Robson were represented by Mr. K. E. Armitage, solicitor, of Walton, Jeffrey & Armitage, Solicitors of Downham Market, and Mrs Brown was represented by Mr R. Britton, solicitor, of Pounder Brown & Gethin, Solicitors of King's Lynn.

The land ("the Unit Land") comprised in this Register Unit is in seven pieces, six being strips which are known as (1) Wood Lane, (2) Furlong Drove, (3) Orton Dam Drove, (4) Romer Drove, (5) Barkers Drove, and (6) Littlemans Way and to which these disputes do not relate, and the remaining one being a piece ("the Disputed Piece") known as River Wash. The Unit Land was registered as common land on the application of Mr Cyril Wood Sanders. The Rights Section is blank. In the Ownership Section Mr Sanders is registered as owner of all the Unit Land. The Disputed Piece is approximately triangular, with sides about 400 yards, 400 yards and 30 yards long; the River Whissey flows along the south (one of the longer) side. The grounds of Objection Nos.334 B and 333 B are (in effect) that the land edged red on the plan attached was not common land at the date of registration and that Mr Sanders was not the owner of it; such land ("the Red Land") comprises the west half of the Disputed Piece except a small piece at the west end. The grounds of Objection Nos. 391 B and 392 B are (in effect) that the land edged pink on the plan attached was not common land at the date of registration and that Mr Sanders was not the owner of it; such land ("the Pink Land") comprises the remainder of the Disputed Piece.

Mrs Robson in the course of her evidence produced the documents or copy documents of the title of Mr T and Mrs E.A. Miller to a bungalow, Turnagen, south of the River and to the Pink Land, and an agreement dated 10 December 1962 by which Mr and Mrs Miller sold Turnagen and the Pink Land to her and her husband. She said that from 1963 nobody had used the Pink Land without their permission.

Mr Britton in the course of his evidence said that his firm acted for Mrs Brown, and



he produced the documents or copy documents of title to the bungalow Watermead south of the River and to the Red Land.

Before the hearing, Mr Sanders sent a letter dated 26 June 1975 to the Clerk of the Commons Commissioners, in which he said:- "I should however like to explain my position. As Lord of the Manor of Kavenham Stoke Wereham and Wetton I was approached at the time of the Commons Registration by the Parish Council of Stoke Ferry who were anxious that where possible I should register land as common or manorial waste, in order to maintain its open character. I accordingly did this, basing myself on the enclosure maps and the tithe maps. This is my interest in the matter. It follows that I am not attempting to register as Common or Manorial Waste any land which the Local Council are claiming as village green or the Ministry of Transport as road verge. My concern is simply to maintain land as common in the interests of the local inhabitants where it is evident that it has been open land".

I have to consider whether the Disputed Piece was on 25 November 1968 (the date of registration) within the definition of common land in section 22 of the 1965 Act: "land subject to rights of common ...; waste land of a manor ...". The documents of title go back to a mortgage dated 14 October 1899; before a deed of partition dated 10 December 1936, the Red Land and the Pink Land were in the same ownership; there is nothing in the documents to suggest that these lands ever were within the definition; ~~those who prepared them had thought that these lands were subject to rights of common or were manorial waste.~~ At the hearing no inclosure award or tithe apportionment award was produced. From the documents, the evidence of Mrs Robson and what I saw on my inspection, I conclude that the Disputed Piece was not within the definition, and should not therefore have been included in the registration. At a later hearing, an award dated 1818 made under the Stoke otherwise Stoke Ferry, Wereham and Wetton, and Minnold Inclosure Act 1815 was produced to me; even if the Disputed Piece was not thereby allotted, and accordingly after the Award remained part of the waste land of the Manor, I should from the documents produced and from what I saw on my inspection have concluded that it had somehow before 1899 ceased to be such.

As to the remainder of the Unit Land, I had no evidence. If it had been separately registered, and if the Objections which I have been considering and which expressly related to the Red Land and the Pink Land had never been made, the registration of the remainder would have become final under section 7 of the Act. I should I think, no contrary contentions having been made to me at the hearing, by my decision produce the same result. Notwithstanding that from what I saw of the Unit Land when I made my inspection, I had some doubts about some of the remainder having been properly registered, I cannot I think properly give any other decision merely on the present appearance of the lands.

For the above reasons, I confirm the registrations with the modifications that there be removed from the registration at Entry No.1 in the Land Section the land edged red and pink on the plans attached and with Objections Nos.354 B and 391 B and by deleting from the description in the Land Section the words "and River Wash" and inserting the word "and" as may be consequentially appropriate.

It is not necessary for me to modify the entry in the Ownership Section to give effect to the ownership of Mrs Brown and Mr and Mrs Robson of the Red Land and the Pink Land because after the Land Section has been modified, such Entry in the Ownership Section will no longer apply to these lands.



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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 *9th* day of *October* 1975

a. a. Baden Fuller

Commons Commissioner.