



COMMONS REGISTRATION ACT 1965

Reference No.45/U/72

In the Matter of Gravel Hills,
Whitley, Osgoldcross R.D.,
Yorkshire West Riding

DECISION

This reference relates to the question of the ownership of land known as Gravel Hills Whitley, Osgoldcross Rural District being the land comprised in the Land Section of Register Unit No.CL.205 in the Register of Common Land maintained by the West Riding 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 Wakefield on 5 February 1974. At the hearing: (1) Whitley Parish Council were represented by Mr. W. Hemingway, their clerk; and (2) Slater Bros. (Whitley) Limited ("Slaters") were represented by Mr. G. D. Chapman, one of their directors.

Mr. Hemingway who, was born in the Village 73 years ago, who has lived there ever since and who has been clerk of the Parish Council for nearly 30 years gave evidence to the following effect:- The land ("the Unit Land") comprised in this Register Unit (according to the Register it contains 2.608 acres) is known as Gravel Hills and is on the outskirts of the Village; the adjoining land on the north is known as Mill Field when he was a boy the greater part of the Land was apparently an old disused gravel pit; it was then and afterwards used as a general rubbish dump by local farmers. For many years prior to 1956, the part of the Unit Land from which the gravel had not been got, was allotment gardens for which rent was paid to the Parish Council; he in 1926 had one of them at an annual rent of 2/-. From about 1943 to 1956 the owner of the land adjoining on the north (a much larger area from which gravel was being got) paid £2 annually to the Parish Council for a wayleave over the Unit Land. In 1956 the Parish Council was receiving £2 annually for the allotment gardens which still then existed. At that time Slaters who are sand and gravel quarry owners, were quarrying on the adjoining land to the north; by an agreement in writing (which he produced) dated 1 December 1956, Slaters agreed (among other things) to buy from the Parish Council "the remaining contents of the old gravel hills, i.e. surface sand and gravel ... for a sum of £160" and "to replace top soil, re-seed and level all the old gravel hills after the sand and gravel had been gotten ..." Under this agreement the remainder of the sand and gravel on the Unit Land has been gotten, but the levelling and replacement of the top soil, which has been started, is not yet finished; the intention is to make it level with the roadway.

Mr. Hemingway produced a copy (dated 28 November 1898) of extracts from an Award relating to the townships of (among others) Whitley and Whitley Thorpe and made under an Act of 1772. He understood that the following words in it related to the Unit Land:- "We set out and appoint three acres and nineteen perches of Land parcel of the Mill Field for getting stone, gravel, sand and other materials for repairing the roads



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and ways set out by virtue of the said Act or other ancient roads within the said Township of Whitley and Whitley Thorpe and for the use of the Inhabitants of the said Township of Whitley and Whitley Thorpe: and bounded ..."

Mr. Chapman said that the north east boundary of the Unit Land as drawn on the Register map does not correspond with the documents held by Slaters showing the boundary between the land they own and the land from which they had taken gravel under the 1966 agreement. However, after some discussion he told me that he did not wish to give any evidence, and I shall therefore treat the evidence of Mr. Hemingway as applicable to the whole of the Unit Land, leaving any boundary dispute there may be between Slaters and the Parish Council to be adjusted if not agreed, in other proceedings.

Later on the same day, Mr. Pickersgill who was representing the County Council as registration authority produced from the West Riding Deeds Registry a bound volume containing a complete copy of the Award above mentioned showing that the original was dated 1 June 1775 and was made for the townships of Pollington, Baln, Whitley and Whitley Thorpe, Great Heck and Little Heck in the parishes of Snaith and Kellington pursuant to a 1772 Inclosure Act (12 Geo. 3 c. xxxviii).

The 1772 Act not only authorised an allotment such as that above quoted, but also provided (stating its effect shortly) that "the herbage" shall vest in the Surveyor of the Highways in trust to let the same and apply the rent received for the repair of the Highways.

The Unit Land is about half an acre smaller than that described in the allotment above quoted from the 1775 Award, and I feel some difficulty in finding on the evidence I have that the land allotted includes the Unit Land; it maybe that since the Award was made, some unrecorded adjustment of boundaries has been made. However, this may be, I conclude from the evidence of Mr. Hemingway as outlined above that the Parish Council are in possession of the Unit Land and that whether or not under the Award they or some other local authority would apart from such possession be owners, it is now practically certain that their possession of the Parish Council will never be successfully disputed.

Possession in such circumstances is equivalent to ownership, and I am therefore satisfied that the Parish Council is the owner of the land and I shall accordingly direct the West Riding County Council as registration authority to register Whitley Parish Council as owner of the land under section 3(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

12th

day of

March

1974.

a. a. Baden Fuller

Commons Commissioner