



COMMONS REGISTRATION ACT 1965

Reference No 43/U/26

In the Matter of Mining Marsh,
Riccall, Selby D

DECISION

This reference relates to the question of the ownership of land known as Mining Marsh, Riccall, Selby D, being the land comprised in the "and Section of Register Unit No CL. 15 in the Register of Common Land maintained by the former East 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 the Churchwardens of the Ecclesiastical Parish of Riccall claimed to be the freehold owners 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 York on 29 June 1976.

Mr Williams of Messrs Ware & Co appeared for the Churchwardens and Mr Deans chairman of the Riccall Parish Council and various of the parishioners also appeared.

Mr Williams produced evidence that by an inquisition taken on 15 December 1698 under a commission of charitable uses the land in question was given to the Churchwardens to the intent that 40 pasture gates (over and above 5 pasture gates allotted to the Lord of the Manor) should be enjoyed together with 20 houses the owners or tenants paying 10/- per annum to the Churchwardens for and towards the repair of the parish church. Mr Williams suggested that the land was vested in the Churchwardens and Overseers for the poor and that the land was vested in the Parish Council as their successors but adduced no evidence in support of that suggestion.

Correspondence with the Charity Commission was produced from which it appeared that the Commission regarded the charity as a purely Ecclesiastical charity, the land being vested in the Churchwardens, they being bound to apply the rents and profits for the maintenance of the church. This view is consistent with the finding of the inquisition. Two very unusual common rights, one of which is final are on the Register and it is now too late for any further rights to be registered.

It is possible that the Churchwardens hold the land subject to a trust to permit the owners and tenants to exercise grazing rights, but that trust if still subsisting is not charitable. I express no view as to any such trust since it is not a matter with which I am competent to deal. Any parishioner who wishes to assert that the churchwardens are under a fiduciary duty to permit him to graze on payment of 10/- will have to establish the trust and his entitlement thereunder in the Courts.



On this evidence I am satisfied that the Churchwardens of the Ecclesiastical Parish of Riccall are the owners of the land, and I shall accordingly direct the North Yorkshire County Council, as registration authority, to register the Churchwardens of the Ecclesiastical Parish of Riccall as the owners 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 19th day of July 1976

C. A. Settle

Commons Commissioner