



COMMONS REGISTRATION ACT 1965

Reference No.45/U/159

In the Matter of Menedale, Stonebeck Down,
Upper Nidderdale, North Yorkshire.

DECISION

This reference relates to the question of the ownership of land known as Menedale, Stonebeck Down, Upper Nidderdale, being the land comprised in the Land Section of Register Unit No.CL 410 in the Register of Common Land maintained by the former West Riding of Yorkshire 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 one 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 Harrogate on 8th May 1975.

At the hearing Mr B.B.Gallagher represented, with leave under reg.20 of the Commons Commissioners Regulations 1971, Mr A.S.Brown and Mrs M.Brown.

By a conveyance and assignment made 23rd May 1956 between (1) Jennie Jefferson and Winifred Greenwood (2) Mary Lister and Catherine Lister there was assigned to the Misses Lister two equal undivided fourth parts or shares in the net proceeds of sale and of the net rents and profits until sale and all other (if any) the Vendors' share and interest of and in the land in question absolutely as joint tenants upon trust to sell the same with power to postpone the sale, subject to the right of the owner or owners of each of the other undivided shares in the proceeds of sale or otherwise entitled thereto to pasture on the land in common with the Misses Lister and to enjoy the eatage thereof for their cattle and stock one year in every period of four years for each such one fourth share. Miss M.Lister subsequently married Mr A.S.Brown, and Miss C.Lister became Mrs Betts and conveyed her interest in the land to Mr Brown.

Mrs Brown and Mrs Betts applied for the registration of a right to graze 10 cattle, 100 sheep, and 5 horses two years in every four over the whole of the land comprised in the Register Unit. M/s J.Cleary and Mr R.F.Cleary applied for the registration of a right to graze 3 animals one year in four over the whole of the land, and Mr J.W.Harker applied for the registration of a right to graze 3 cattle one year in four over the whole of the land. All these registrations, being undisputed, became final on 1st August 1972. Mr Gallagher stated, as would appear to be the case, that M/s Cleary and Mr Cleary, and Mr Harker were entitled to interests similar to those of Mr and Mrs Brown.

Since by virtue of section 1(6) of the Law of Property Act 1925 no legal estate has been capable of subsisting in an undivided share in land since



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31st December 1925, it would appear that the equitable interest of the 1956 Vendors must have been derived under some conveyance of the land in undivided shares made before 31st December 1925. Since the land is an open space over which each owner had rights of access and user immediately before that date, the transitional provisions in para.2 of Part V of the First Schedule to the Act of 1925 would have operated to vest the land in the Public Trustee on the statutory trusts.

I am therefore satisfied that the Public Trustee is the owner of the land, and I shall accordingly direct the North Yorkshire 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 10th day of June 1975

Chief Commons Commissioner