



COMMONS REGISTRATION ACT 1965

Reference No. 268/U/61

In the Matter of Old Quarries, Keld, Muker,
Richmondshire D., North Yorkshire

DECISION

This reference relates to the question of the ownership of land (in two pieces) known as Old Quarries, Keld, Muker, Richmondshire District being the land comprised in the Land Section of Register Unit No. CL.368 in the Register of Common Land maintained by the North 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 the Executors of the will of Elizabeth Rukin (by their solicitors) claimed to be the freehold owners of that piece ("the Northeast Piece") of the land in question which is the nearer to the village of Keld, and Mr J.A. Hunter (by his solicitors) provided information as to the ownership of the other piece ("the Southwest Piece"); no other person claimed to be the freehold owner of the land or 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 Richmond on 31 October 1974. At the hearing: (1) the Rt. Hon. W.J.R. Earl Peel was represented by Mr J.L. Gillibrand solicitor of Oglethorpe, Sturton & Gillibrand, Solicitors of Lancaster, (2) Mr J.A. Hunter was represented by Mr J.S. Huntingdon, solicitor of Malcolm E. Scott & Son, Solicitors of Leyburn and (3) Mr. L. Rukin was represented by Mr J.C. Hall, solicitor with Willan & Johnson, Solicitors of Hawes.

Mr J.A. Hunter in the course of his evidence produced: (a) an Inclosure Award dated 2 June 1829 (this document although headed "copy", appears to have been signed by the Valuers who made the original on the day of its date), (b) an extract from the O.S. map 1912 edition (c) an admittance dated 8 April 1925 at a customary court of the Manor of Muker of Mr T. Hunter as a customary tenant, and (d) an assent dated 13 June 1961 and made in favour of himself (Mr J.A. Hunter) by himself as personal representative of Mr T. Hunter (he died on 18 September 1958). Mr L. Rukin in the course of his evidence produced:- (a) an extract from the 1912 map, (b) a conveyance dated 6 April 1943 of meadow and pasture land containing 75.794 acres to Mr J. Rukin, (c) an assent dated 4 December 1959 and made in favour of Mrs E. Rukin by herself as personal representative of Mr J. Rukin (he died on 28 August 1959), and (d) an assent dated 6 April 1974 in favour of himself (Mr L. Rukin) made by himself and Mrs S.J. Rutter as personal representatives of Mrs E. Rukin (she died on 18 October 1973).

The 1829 Award after certifying that Keld Pasture and Kisdon (agreed to be allotted) contained 933 acres and 3 roods continued as follows:- "And we have set out ... and do hereby assign the three several pieces or parcels of ground next hereinafter mentioned being respectively parts of Keld pasture aforesaid as public quarries that is to say that parcel of ground and measuring 3 roods and seven perches situate within but not forming part of the allotment hereinafter awarded to John Reynoldson numbered 22 on the plan and bounded on all sides by the said allotment, Also all that other parcel of ground admeasuring two roods and two perches situate within but not forming part of the allotment hereinafter awarded to the Reverend John



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Alderson numbered 24 on the plan and bounded on all sides by the said allotment and also ... And which said three several quarries shall forever hereafter be for the use of repairing the public or private or occupation roads within the said Hamlet or Territories of Keld and for the use of the inhabitants dwelling therein ~~after~~ for building and for all other lawful purposes whatsoever ..."

The 1829 Award plan shows the 2 roods 7 perches piece ("the No.24 Quarry Piece") thereby allotted (surrounded by plot 24) as an approximately rectangular piece of land; the Register map shows the Northeast Piece as a circular piece of land which as I scale the map is a little more than 3 roods; the general position of the two pieces is about the same. The 1829 Award plan shows the 2 roods 2 perches piece ("the No.22 Quarry Piece") thereby allotted (surrounded by plot 22) as being approximately rectangular (the north side a little longer than the south); the Register map shows the Southwest Piece as an oval piece of land which as I scale the map is more than 2 acres; again the general position of the two pieces is about the same, but obviously the Southwest Piece must include much land never in 1829 intended to be included in the No. 22 Quarry Piece.

As to the Southwest Piece (being the piece with which Mr Hunter is concerned):-

Mr Hunter referred to the allotment in the 1829 Award to John Reynoldson of 12 acres 3 roods and 22 perches numbered on the plan 22 "subject to the said Thorns and Keld occupation road and to the branch thereof hereinbefore respectively set out as well as the common quarry contained therein ..." By the 1925 admittance, Mr T. Hunter was admitted to (among other lands) the allotments awarded to John Reynoldson in the division of Keld Pasture numbered 5 and 22 in consideration of a payment made to the devisees named in the will of John Reynoldson.

Mr Hunter said (in effect):- Mr T. Hunter named in the admittance was his father and he was his sole personal representative. His father and he after his father's death had farmed Thorns Farm with the land surrounding the site of the No. 22 Quarry Piece. This piece had never (nor had the Southwest Piece) been fenced off from the surrounding field. It did not look as if it had ever been worked as a public quarry. The "Old Quarry" marked in plot 719 on the 1912 map by a small square is a little quarry face with not much soil about; the "Old Limekiln" marked in plot 719 is still there (it was erected by Mr Reynoldson) although it wants relining. The "Old Quarry" marked in plot 709 oval shaped by broken lines is a hole which does not look as if it has been worked.

Mr Hunter said that he claimed ownership of the registered land (meaning the Southwest Piece) except the land which had been allotted (meaning the No. 22 Quarry Piece).

As to the Northeast Piece (this being the piece with which Mr Rukin is concerned):-

The 1912 map shows plot No. 723 as containing 16.633 acres including an "Old Quarry" (an area which as delineated appears to me to be about a 1/2 of an acre) and the Methodist Chapel. The parcels of the 1943 conveyance include "723. Limekiln Allotment (less two plots of land sold off containing 78 sq. yards and 67 sq. yards respectively) Pasture. 16.6333"; the parcels of the 1959 and 1974 assents are the same.



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Mr Rukin said (in effect):- He had lived in the Village since he was 6 years old (he is now 61 years of age). His grandfather was tenant of the lands comprised in the 1943 conveyance. His father helped his grandfather with his farming. His grandfather died in January 1942, and the sale was in October 1942. He remembered while he was at school in the 1920s, someone from the District Council taking some stone from the Northeast Piece for the local roads; it has never been used for quarrying stone since. There has never been any fence separating the Northeast Piece (or the No.24 Quarry Piece) from the surrounding field; these pieces are overgrown and have always (meaning I assume as long as he can remember) been grazed along with the surrounding fields. Nobody has ever objected. The parts of O.S. No. 723 mentioned in the 1943 conveyance as "sold off" were sold in his father's time for building and are no part of the Northeast Piece.

Mr Rukin claimed a possessory title to the registered land (meaning the Northeast Piece) including ^{the land} which had been allotted (meaning the No.24 Quarry Piece).

No evidence was given or submission made on behalf of Lord Peel.

I am concerned on this reference to determine the ownership of the Northeast Piece and the Southwest Piece. Both pieces were registered in consequence of an application by Mr A.N.H. Lodge to have registered in the Rights Section a right to take stone over both these pieces; this registration being undisputed has become final. I have no jurisdiction to correct the delineation of these pieces on the Register map (as I understand Mr Hunter would like me to do) merely because there may have been some mistake.

As to ownership, I must first consider the effect of the 1829 Award. It is a long document; in the time available to me, I could find no indication that it had been made pursuant to any Act of Parliament; it appeared to me to have been made pursuant to an agreement between all the persons then believed to have common rights over Keld Pasture and Kisdon. It contained no allotment to the Lord of the Manor, but was expressed to be subject to his fines, services, courts, etc and it provided that the Award should be kept with the Court Rolls. In my opinion under the above quoted allotment the Northeast Piece and Southwest Piece both became parish property and by operation of law vested in the Churchwardens and Overseers for the purposes set out in the Award, see Doe v. Hiley (1830) 10B & C 885 and Doe v. Terry (1835) 4A & E 274 at page 281 and Haigh v. West (1893) QB 19 at page 31. Accordingly both pieces are now vested in Muker Parish Council as the successors in title of the Churchwardens and Overseers under the Overseers Order 1927 (S.R. & O. 1927 No.55) except to the extent that their ^{title} has been extinguished by the Limitation Act 1939 as a consequence of adverse possession. There was no evidence suggesting that the Churchwardens and Overseers or the Parish Council could have lost their title in any other way.

Mr Hall submitted (rightly I think) that the evidence established that as regard the No. 24 Quarry Piece the title of the Parish Council had been extinguished by the adverse possession of Mr Rukin and those under whom he claimed. Although his oral evidence was short and not detailed, the 1943 conveyance → shows that the Northeast Piece (whatever its precise position in relation to the surrounding land may be) was conveyed with the surrounding land on the basis that it was then considered to be in the same ownership.



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I need not consider what parts if any of the Northeast Piece are outside the No. 24 Quarry Piece, because on the evidence I conclude that Mr Rukin is the owner of these parts too. Although it might be convenient if I could reach the same conclusion regards the Southwest Piece, to my regret I cannot do so. There was no evidence that Mr Hunter or his predecessors in title have ever been in adverse possession of the No. 24 Quarry Piece. Although it may be possible that Mr Reynoldson when he built the limekiln reached some agreement with the Churchwardens and Overseers as to the enlargement of the quarry, I had no evidence about this.

However I can on the evidence, and do conclude that Mr Hunter is the owner of so much of the Southwest Piece as is not included in the No. 22 Quarry Piece.

As to the present boundary of the No. 22 Quarry Piece:- Apart from the plan attached to the 1829 Award I have no evidence. >>

→ The boundary drawn on such plan may not having regard to what has since happened be convenient or sensible, but it seems to me that I have no other choice. I can only hope that notwithstanding my decision, the various persons interested may be able to reach some agreement to enable the whole of the Southwest Piece to be used productively

For the above reasons I am satisfied that Mr Rukin, Mr Hunter and Parish Council are the owners of the land comprised in this Register Unit, each of a part in accordance with the various conclusions I have set out above, and I shall accordingly under section 8(2) of the Act of 1965 direct the North Yorkshire County Council as registration authority (i) to register Mr Laurence Rukin of Park Lodge, Keld, Yorkshire as the owner of the northeast of the two pieces which together make up such land, being that piece which is nearer to the village of Keld, (ii) to register Muker Parish Council as the owner of so much (if any) of the other of the said pieces (being the piece further from the village) as is delineated on the plan annexed to an Award made in the year 1829 for the purpose of dividing Keld Pasture and Kisdon and thereon marked "Common Quarry" (a copy of which plan I shall annex to my decision), and (iii) to register John Alderson of Thorns Farm, Keld, Yorkshire as the owner of the remainder of such last mentioned piece.

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 20th

day of

January

1975

a. a. Bain Fuller

Commons Commissioner