



COMMONS REGISTRATION ACT 1965

Reference No.45/U/257

In the Matter of The Green, Hartlington,
Craven D., North Yorkshire

DECISION

This reference relates to the question of the ownership of land known as The Green, Hartlington, Craven District (formerly Skipton Rural District, Yorkshire West Riding) being the land comprised in the Land Section of Register Unit No.VG.101 in the Register of Town or Village Greens 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 personal representatives of the late H. C. Dawson claimed (in a letter by their Solicitors) ownership of The Green "which forms part of the Mansion of Hartlington Hall". No other person claimed to be the freehold owner of the land in question 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 Skipton on 2 April 1974. At the hearing (1) Hartlington Parish Meeting were represented by Mr. A. E. Metcalfe who was a member (representing the Parish) of Skipton Rural District Council and by Mr. J. H. Walker who had been chairman of the Parish Meeting for 25 years (1945-1951 and 1956-1973); and (2) Mr. R. F. Hollingshea Mrs. V. M. Dawson, Mr. C. P. Dawson and Mrs. C. M. S. Scott ("the Claimants") were represented by Mr. C. Reeder solicitor of Charlesworth, Wood & Brown, Solicitors of Skipton.

The Register shows that this registration was made pursuant to an application by "Hartlington Parish Council". Mr. Metcalfe said that there had never been any such council; it was (rightly I think) not suggested that this mistake affected this reference.

The land ("the Unit Land") comprised in this Register Unit, which contains (according to the Register) .085 hectares (about .21 of an acre) is a triangular piece of grass land bounded on the south west by the road ("the Through Road") which runs near to and on the east side of the River Wharfe from the Bridge at Burnsall and from Hebden and Hartlington to Appletreewick and Bolton, bounded on the north west by the track or drive way ("the Main Track") leading from the Through Road to the entrance gates of Hartlington Hall and on the east by a stone wall ("the East Wall") with a gate in it.

Mr. C. P. Dawson (one of the Claimants) gave evidence. The other Claimants are his mother, his sister and a solicitor; together they are the trustees of the will of his father Mr. H. C. Dawson ("the Testator"). They own Hartlington Hall under an assent dated 26 October 1971 by which they as personal representatives of the Testator assented to freehold properties situate at Settle and Hartlington vesting in themselves upon the trust for sale contained in the will of the Testator.



-2-

Mr. Dawson said (in effect):- Hartlington Hall (it was built in 1895 by his grandfather Colonel H. P. Dawson) and the land round has been in his family ever since the 17th century (1660 was he thought the date of its acquisition). "There are no title deeds relating to Hartlington Hall". He (Mr. Dawson) was born 49 years ago; his parents then lived in Devonshire. In 1934 his grandfather Colonel Dawson died; before then, he and his parents came to Hartlington Hall for holidays; afterwards the Testator became the owner, and he and his family (including of course his son Mr. Dawson) lived there until 1938. They then left and ever since Hartlington Hall has been let on long leases (meaning leases for 10 or 20 years or some such term). Hartlington Hall however remained in the ownership of the Testator until his death on 25 May 1970.

The land at Hartlington comprised in the 1971 assent was therein described as follows:- "FIRST ALL THAT Mansion House known as "Hartlington Hall" with Woods Grounds adjoining thereto TOGETHER with the dwelling house known as "the Lodge" (formerly the Coachman's Cottage) Stables and Buildings Gardener's Cottage Old Mill Mill Cottage and Mill Race Gardens and appurtenances AND TOGETHER with all rights and privileges appertaining and belonging thereto and enjoyed therewith ALL WHICH said property contains in whole an area of Twelve and a half acres or thereabouts and is situate in the townships of Hartlington and Appletreewick near Skipton in the said County of York and now in the several occupations of Peter Henry Powney Maurice Levin and George Emmot Sedgwick The Old Mill and Mills Race being in hand SECONDLY ALL THAT Farm known as "Woodhouse Manor Farm" ... THIRDLY ALL THAT the Manor or Lordship of Hartlington ... AND all other (if any) the premises situate in the Ancient Parish of Burnsall aforesaid of the said Henry Christopher Dawson on the date of his death".

Mr. Dawson made a general statement to the effect that the claimants are the owners of the Unit Land because they own Hartlington Hall and because the Unit Land is and was "part of Hartlington Hall"; and amplified this statement as below set out. No evidence on behalf of the Parish Meeting was given; however Mr. Metcalfe when asked why, when the application for registration was made, the strip of land ("the Northwest Strip") between the northwest boundary of the Unit Land and the boundary wall of the nearby field ("the Northwest Field") was not included, answered; "It was a legal error". The Northwest Strip consists of the Main Track (above mentioned) and of a strip of grass land between the Main Track and the boundary wall of the Northwest Field.

As a result of my suggesting that the leases mentioned ought to be produced, Mr. Reeder (after an adjournment) provided me with: (i) a copy of a lease dated 21 July 1967 by which the Testator demised Hartlington Hall from 21 July 1967 for 21 years, and (ii) a copy of an agreement dated 28 June 1967 by which the Testator let Mill Cottage (about 100 yards south of the Hall) from 1 July 1967 on a quarterly tenancy. Mr. Reeder stated that these copies had been made a few minutes before from the counterparts in his office.

After the hearing I inspected the Unit Land it having been agreed that I might do so unattended.

Mr. Dawson's reasons for stating that the Unit Land was owned by the Claimants (he treated the Unit Land and the Northwest Strip as one piece of land) were as follows or to the following effect:- "I think this part of Hartlington Hall because for one reason





-3-

we used to drive across it. There is a trough at the bottom of the green which has a Latin inscription which my grandfather had carved on the side of the trough, something about leading a horse to water. Another thing there is a gate to the field called the Park which you would have to go across this green to get into." "There is a rough track across the east side of the Unit Land leading from the entrance gates of Hartlington Hall to the Through Road. The Testator's ownership of the green has never been challenged; he never gave any acknowledgement or paid any rent in respect of it. Mr. Dawson, although he had not (except as above mentioned) lived at Hartlington (he lived at Settle), had kept "in contact with Hartlington".

Arising out of questions and comments made by Mr. Metcalfe, Mr. Dawson also said (in effect):- The land is open to the highway. There would be no point in enclosing it from the highway. It should not be regarded as a village green because there are no houses around it; Hartlington is a hamlet. He had never, before seeing his solicitor on this reference, heard the Unit Land called "the Green"; when he was a boy the land was never called anything. The "twelve and a half acres" mentioned in the 1971 Assent were Ordnance Survey Nos. 17, 18 and 19 and another to the west (and did not therefore include the Unit Land). He (Mr. Dawson) personally (not as trustee of the Testator's will) owned Wharfe House Farm (the farmhouse is south-east of the Unit Land) including two fields (O.S. Nos. 14 and 19 on the north and west of the Hartlington Hall Land): this Farm (including the said two fields) had been a gift to him from his father in 1967; it is now let; access to the said two fields is through the gate at the northeast end of the Northwest Strip. The Northwest Field (on the other side of the stone wall which forms the boundary of the Northwest Strip) is part of Spout House Farm, the farmhouse of which is south of the Unit Land. The Claimants had never cut the grass or done anything else on the Unit Land. He (Mr. Dawson) thought that his grandfather Colonel Dawson had put the entrance gates to Hartlington Hall in their present position (rather than in the west corner of the Northwest Strip) because they would look better there.

The 1967 lease described the land let as "all that Mansion House called Hartlington Hall with the woods and grounds adjoining and the stables and coach house situate ... and more particularly delineated on the plan hereto annexed and therein coloured pink and surrounded by a red verge line ... RESERVING ... the Coachman's cottage and out-buildings coloured blue ..."

The plan on the 1967 lease does not colour pink or include within the red verge line either the Unit Land or the Northwest Strip. It shows the four O.S. mentioned by Mr. Dawson with their areas (No. 18 is not included in the letting), and these areas (without No. 18) add up to more than twelve and a half acres (the area mentioned in the 1971 Assent). In my view neither in the 1967 lease nor in the 1971 Assent is the Unit Land within the description of the land therein expressly referred to as Hartlington Hall.

In my view the circumstance that the Main Track is the principal access to the main gates of Hartlington Hall and that the track leading from these gates across the east side of the Unit Land to the Through Road (this track is apparently little used) provides a subsidiary access to the main gates and also to the gate of the field called the Park, does not indicate that the Unit Land (considered either by itself or with the Northwest Strip) is in the same ownership as Hartlington Hall. Quite apart from the circumstance that the Northwest Strip provides access also to the two fields (O.S. Nos. 14 and 19a)





owned by Mr. Dawson, the various accesses above mentioned seemed to me when I inspected the land to indicate no more than that there were rights of way over the Unit Land and the Northwest Strip appertaining to Hartlington Hall and to the said fields.

In my view Mr. Dawson is mistaken in thinking that the Unit Land should not be regarded as a village green, because there are no houses around it. There are some houses around it; Wharfe Farm House, Spout Farm House; and some cottages on the north side of the road either front on or are very near. Although the Unit Land (with or without the Northwest Strip) does not resemble a village green such as exists in many villages with houses compactly arranged around some central area, for a scattered hamlet such as Hartlington the Unit Land (with or without the Northwest Strip) now appears a conveniently situated piece of land (not large) upon which the inhabitants (if not the adults certainly their children) might find it convenient to indulge in sports and pastimes. I reach this view quite apart from sect 10 of the 1965 Act which provides that the registration is in this case conclusive evidence that the Unit Land was on 16 September 1968 (the date of registration) a town or village green within the definition in section 22 of the Act.

It is possible (this possibility was as I understood Mr. Dawson put forward by him as a historical fact which ought to be inferred) that when his grandfather Colonel Dawson built Hartlington Hall and laid out the drive leading up to it from the Through Road, he then was or thought he was the owner of the Unit Land, and of the Northwest Strip and that he then erected the Hartlington Hall entrance gates where they now are (at the northeast end of the Northwest Strip) rather than nearer the Through Road (e.g. at the west end of the Northwest Strip) to improve the appearance of the entrance way to the Hall he was building. At the hearing this possibility seemed to me consistent with the appearance of the surrounding land as shown on the Ordnance Survey map on which the Register map is based.

However, on my inspection, and notwithstanding that the entrance gates are supported by two substantial stone pillars and have an imposing and attractive appearance, I consider such a possibility much less likely than it appeared at the hearing. Hartlington Hall stands on the top of a cliff and the view from the south facing rooms must I suppose be magnificent. The Beck, the Saw Mill buildings and the Saw Mill cottage are at the bottom of this cliff (the Beck flows under Hartlington Bridge and joins the river Wharfe about 500 yards away). From the west end of the Unit Land, the Through Road slopes downwards to cross over Hartlington Bridge near the bottom of the cliff, and the Main Track slopes upwards, being the beginning of the ascent necessary to reach Hartlington Hall at the top of the cliff. The Unit Land slopes (gradually at first and more steeply towards its east end) down from the Main Track to the Through Road. The land on the other side of the East Wall (being the field called "the Park") slopes more steeply. From appearances alone, it seems both possible and likely that the East Wall (or some other wall at the same place) has always been where it now is (it appears in part to be a retaining wall) and that there has always been a gate where the Hartlington Hall entrance gates now are providing access to the building known as the Lodge (formerly the Coachman's cottage; west of the Hall and north of the right angle turn in the drive to it). The possibility put forward by Mr. Dawson seems to me to presuppose that before 1895, the Unit Land was in some way fenced off by a wall or otherwise from the Through Road with a gate at or near its west end; on appearance alone, I think the existence of any such fence is unlikely, although it is of course possible.



-5-

The point above discussed, would be cleared up by the production of a map of Hartlington made before 1895. In the absence of any such map (none such was produced at the hearing) and upon the considerations set out above, I decline to make any inference about the before 1895 appearance of the Unit Land.

The water to the trough appears to come from a pipe or a bricked in underground spring a few yards higher up on the Unit Land. The inscription on the trough is:-

DE TORRENTE IN VIA BIBET
PROPTEREA EXALTABAT CAPUT

I infer that Colonel Dawson when he arranged for this inscription to be cut knew that it was the last verse of a Psalm*, the first verse of which was quoted by Jesus Christ and that his motive (or at least one of his motives) was religious. This motive is consistent with the trough being on public land. The inscription is I think no certain or weighty consideration as to ownership.

Although I accept Mr. Dawson's evidence as establishing that the Claimants own Hartlington Hall, having regard to the matters set out above, I do not agree with the reasons he put forward for his general statement that the Unit Land is or was part of Hartlington Hall. I decline to treat his general statement as being more persuasive than his reasons for it. When he made it, he did not appear to me to be describing (he did not suggest that he was) a tradition as to ownership held for many years either by the Testator and his family or by the inhabitants of Hartlington, and I am not persuaded that there ever was any such tradition.

For the above reasons I am not satisfied that the Claimants are the owners of the Unit Land.

I record that it was not suggested (rightly I think) that the Claimants should be considered as owners under the common law presumption that where a highway is fenced, the owner of the land behind the fence is presumed to own the land (subject to the highway rights of the public) between the fence and the made up carriage way. Such presumption is I think rebutted in this case by the existence of a village green between the fence and the carriage way (the common law presumption must I think be considered in conjunction with the statutory presumption in section 10 of the 1965 Act) and by the appearance of the land. Further as between the Claimants as owners of Hartlington Hall Mr. Dawson as owner of Field O.S. No.14 and the owners of the Northwest Field the common law presumption does not produce the result desired by the Claimants.

It was not suggested and there was no evidence that anyone other than the Claimants could be the owner of the Unit Land.

For the above reasons I am not satisfied that any person is the owner of the land, and I shall accordingly direct the North Yorkshire County Council as registration authority to register Craven District Council as the owner of the land under section 8(3) of the Act of 1965.

(Turn over)

* Psalm 110. Dixit Dominus Domino meo ... etc .. (Authorised Version): He shall drink of the brook in the way: therefore he shall lift up the head.



-6-

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

13th

day of

May

1974.

a. a. Baden Fuller

Commons Commissioner