



In the Matter of The High Common,
Middleton, North Yorkshire

DECISION

This reference relates to the question of the ownership of land known as The High Common, Middleton, being the land comprised in the Land Section of Register Unit No. CL 167 in the Register of Common Land maintained by the former North 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 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 Malton on 11 October 1977.

At the hearing the ownership of the land was claimed by Mr Bertie Grayson.

Mr Grayson purchased a property known as Manor House, Middleton about 23 years ago. He stated that he had mown the land in question for hay every year and that it had not been used for any other purpose. Had that evidence stood alone, I could have found that Mr Grayson had acquired a possessory title to the land. However, Mr Grayson was registered in the Rights section of the Register Unit as the owner of a right to graze 20 sheep over the whole of the land comprised in the Register Unit. He said that he had in fact never used the land for grazing. Nevertheless the registration of his grazing rights, which was not disputed, is by virtue of section 10 of the Act of 1965 conclusive evidence that Mr Grayson was entitled to a right of common over the land at the date of the registration, which was 28 August 1969. A right of common is a right over land belonging to another and so is inconsistent with a claim to the ownership of the land. Mr Grayson must, therefore, as a matter of law, be taken not to have been the owner of this land on 28 August 1969. There has not been sufficient time for him to have acquired a possessory title since then. There is no evidence as to the owner to whom Mr Grayson's possession has been adverse. Therefore, in the absence of any evidence as to the ownership I am not satisfied that any person is the owner of the land, and it will therefore remain subject to protection under section 9 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 4th day of Nov 1977

Chief Commons Commissioner