



COMMONS REGISTRATION ACT 1965

Reference No 268/U/107

In the Matter of Thoralby Moss,
Thoralby, Richmondshire District,
North Yorkshire

DECISION

This reference relates to the question of the ownership of land known as Thoralby Moss, Thoralby, Richmondshire District being the land comprised in the Land Section of Register Unit No CL. 217 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 no person claimed to be the freehold owner of the land in question and no 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 Richmond on 10 February 1977. At the hearing Mr H B Sadler who is the chairman of Thoralby Parish Meeting attended in person and Mr Robert Hewitt Chapman-Robinson on whose application dated 28 June 1968 the registration was made, was represented by Mr E R D Johnson, solicitor of Willan and Johnson, Solicitors of Leyburn acting in this matter as agents for Malcolm E Scott and Son, Solicitors of Hawes.

Mr Johnson said that he was authorised to say that Mr Chapman-Robinson does not wish to pursue his ownership claim.

Mr Sadler who has lived in the area for 9 years and is a councillor of the newly formed Aysgarth and District Parish Council (they include Thoralby) in the course of his evidence produced: (1) the Thoralby Parish Meeting Account Book from 1911 to 1959; (2) the Parish Meeting Receipts and Payments Book from 1931 to 1960; (3) the Minute Book of the Parish Meetings from 1894 to the present day; and (4) a letter dated 28 January 1977 from Mr M Y Ashcroft, County Archivist of North Yorkshire, enclosing an extract from the Thoralby Inclosure Award 1814.

Mr Sadler said (in effect):- The land ("the Unit Land") comprised in this Register Unit is together with another much smaller piece which adjoins on the east and which is comprised in Register Unit No CL. 276 known sometimes as Thoralby Moss and sometimes as Stake Moss; the Unit Land and the CL. 276 Land together contain about 217 acres.

The 1814 Award (made under the Aisgarth, Manor of Thoralby, Inclosure Act; 49 Geo 3 c.52) directs that 217 acres 2 roods and 29 perches parcel of Thoralby Stake Common "...shall remain open and be held and enjoyed by all and every the Proprietors of Messuages and Lands situate in the Township of Thoralby aforesaid and all other persons having Rights thereon as before the passing of this Act they respectively held and enjoyed the same or otherwise (...?) for the Major





part in value of the Proprietors of the said Moor or Common called Thoraby Stake for the time being to let the same to Farm for any term not exceeding three years (Subject to the right of Turbary reserved to the Inhabitants of Thoraby and Aisgarth aforesaid) and to apply the Rents and profits thereof in aid of the Poor Rates for the said Township of Thoraby in proportion to the said respective amounts of such rates". The books produced by Mr Sadler show that Stake Moss has been for many years regularly let and is now let by or under the supervision of the Parish Meeting (the annual rent in 1911 was £8.10.0 and in 1930 was £60.10.0).

Under the 1965 Act, I am concerned with the ownership of the legal estate in fee simple, see section 22. Under the 1814 Award it is not clear in whom this ownership became vested; however the Parish Meeting have for many years acted as owners by letting the land, and nobody at this 1977 hearing claimed against them, so I conclude that they are in possession and that it is practically certain that their possession will not be disturbed. Possession in such circumstances is equivalent to ownership.

Land held for the purpose of a parish, ^{meeting} may under section 19(6) of the Local Government Act 1894 be held by the body corporate thereby established. By section 47(3) of the Local Government Act 1933 for this body, there was substituted a body corporate named "The Representative Body" of the parish. By section 13(3) of the Local Government Act 1972, and the Local Authorities (England)(Properties etc) Order 1973, the property of this body has been transferred to a new body corporate named "The Parish Trustees" of the parish, such body consisting of the chairman of the parish meeting and the proper officer of the district council. Having regard to these statutory provisions, I conclude that the legal estate in the Unit Land of land in the ownership of the Parish Meeting is now vested in the body corporate so established by the 1972 Act.

For the above reasons I am satisfied that the Parish Trustees are the owners of the Unit Land and I shall accordingly direct the North Yorkshire County Council as registration authority to register the Parish Trustees of Thoraby 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 18th day of February — 1977

a. a. Baden Fuller

Commons Commissioner