



In the Matter of Ugthorpe Moor, Ugthorpe,  
North Yorkshire (No. 4)

DECISION

This dispute relates to the registration at Entry No. 2 in the Ownership section of Register Unit No. CL 137 in the Register of Common Land maintained by the former North Riding of Yorkshire County Council and is occasioned by the conflicting registration at Entry No. 1 in the same section of the Register Unit.

I held a hearing for the purpose of inquiring into the dispute at Whitby on 27 May 1977. The hearing was attended by Mr Ian Lamb, of counsel, on behalf of Mr T M Hill, the applicant for the registration at Entry No. 2, and by Mr T Etherton, of counsel, on behalf of the Marquiss of Normandy, the applicant for the registration at Entry No.1.

Mr Hill claims that the land comprised in the Register Unit is waste land of the manor of Ugthorpe and that he is the owner of it by virtue of being the lord of that manor.

During the Middle Ages the manor of Ugthorpe belonged to Guisborough Priory. After the dissolution of the Priory the manor was granted by the Crown to William Stafford. It was agreed between the parties that the manor passed by divers mesne assignments to John Marshall of Ugthorpe, who by an indenture dated 3 March 1762 leased it to Thomas Hill of Ugthorpe for one year. This lease was in the form normally used for a conveyance by way of lease and release. It was registered in the North Riding Deeds Registry at Northallerton on 21 April 1762, but there is no registration of the release, and although the lease is in the possession of Mr Hill, the release is not.

In order to prove the former existence of the release Mr Lamb submitted a manuscript list of documents said by Mr Hill to have been compiled by a local historian, now deceased, named Ward. This list contains an entry of indentures of lease and release dated 3 and 4 March 1762.

In my view, this list of documents is not admissible evidence to prove the former existence of the release, since it was not prepared by Mr Ward in the execution of any duty. Perhaps I should add that I reject this list without reluctance, since it is not a mere inventory of documents, but also contains additional narrative material, the source of which is not stated. It may well be that Mr Ward assumed from the form of the lease that there must also have been a release. He certainly did not confine himself to noting what he saw, for he added to the description of Thomas Hill that he was nephew of John Marshall.

Mr Lamb also invited me to infer from the existence of the lease that there must also have been a release. In the absence of any other evidence, such an inference might have been possible, but I have formed the view that it is ruled out by the non-registration of any release. If such a release had been executed, there would have been every inducement for Thomas Hill to have had it registered,



for by virtue of section 1 of the Act 8 Geo. II, c.6, under which the North Riding Deeds Registry was constituted, a deed affecting land in the North Riding was to be adjudged fraudulent and void against any subsequent purchaser for valuable consideration unless registered.

There is, however, a further obstacle in Mr Hill's path, for if Thomas Hill acquired the manor of Ugthorpe, there is evidence that he subsequently disposed of it. This evidence is the record of the Court Leet and View of Frankpledge and Court Baron of Henry, Lord Mulgrave, lord of the manor of Ugthorpe, held on 6 November 1794. The remarkable feature of this document is that the venue was the dwellinghouse of Thomas Hill in Ugthorpe and that the Steward was John Marshall. Not only was Thomas Hill's house used, but he himself was present, being sworn as a member of the homage. It is further worthy of note that the record is endorsed with particulars of the expenditure on the dinner of beef, brandy and lemons, bread and ale, including a payment of 10s. 6d. to Mrs Hill, presumably for preparing the meal.

Mr Hill is great-great-grandson of Thomas Hill of Ugthorpe, who died 26 December 1826. This Thomas Hill may have been the Thomas Hill who was party to the lease of 1762, though this seems unlikely, since he had a son John Hill, who died 2 June 1912. Even if John Hill was a centenarian, he would have been born when the lessee of 1762 was at least 71 years of age, for he must have been at least 21 in 1762. Furthermore, the widow of the Thomas Hill who died in 1826 did not die until 2 August 1875, 134 years after the latest possible birth-date of the lessee of 1762. This appears from an abstract of the title of Mr Hill to land at Ugthorpe, but there is no mention in this document of the manor of Ugthorpe and it is insufficient to show that even if the lessee of 1762 had been the lord of the manor, it would have passed to Mr Hill by operation of law.

Since Mr Hill has never been in possession of the land comprised in the Register Unit and bases his claim to it solely upon his claim that he is the lord of the manor, I am not satisfied that he is the owner of the land.

For these reasons I refuse to confirm the registration.

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 21st day of June 1977

  
Chief Commons Commissioner