



In the Matter of (1) Mansey Common (2) Penny Pastures Common and (3) Enclosed Common, all in the Parish of Eakring in the County of Nottinghamshire.....

DECISION

This reference relates to the question of the ownership of the land above mentioned being the land comprised in the Land Section of Register Unit No. CL. 30, CL.31 and CL.32 in the Register of Common Land maintained by the Nottinghamshire 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 Mr James Clifford Hilton claimed to be the freehold owner of the land in question and no other person claimed to have information as to its ownership.

I held hearings for the purpose of inquiring into the question of the ownership of the land at Nottingham on 1 November 1984, 26 February and 4 June 1985.

The hearing was attended by Mr D C Aird of Blackhurst, Parker and Yates, Solicitors of Blackpool representing Mr Hilton, Mr Maher represented the Registration Authority, Mrs J Meanley (a member) represented the Eakring Parish Council.

Mr Aird said that in August 1940 Henry Talbot de Vere Clifton who was then Lord of the Manor of Lytham in the County of Lancaster purchased Rufford Abbey and the Pleasure Grounds held therewith situate in Parishes of Rufford and Eakring in the County of Nottingham less the minerals, together with certain manors. This property had previously been part of the Savile Estates and the Vendors were the then Lord Savile, his Settled Land Act Trustees and two other persons.

Mr Clifton died on 26 November 1979 and his will dated 26 June 1978 was proved in the Principal Probate Registry on 23 November 1981 by Marjorie Atkinson (formerly Marjorie Kilmer) named as Executrix in the said will power being reserved to the Execurtor. Mrs Atkinson was the sole beneficiary under the will. I have read a statement signed by Mr Leonard Harry who describes himself of Soller Majorca Spain and formerly of 12, Clifton Villas London W.9 dated 2 April 1985.

Mr Urry confirms that he was the trustee to Mr Clifton for many years and that at his death Mr Clifton was the owner of various Manors and Common Lands, namely All Those Titles Lordships and Manors at Rufford, Allerton, Boughton, Eakring, Wellow and Oampton. Mr Clifton died with these various Titles, Manors and Lands still in his possession. Mr Urry



also claimed that after Mr Clifton's death he (Mr Urry) had lodged all documents relating to the Titles, Manors and Lands with Mr Clifton's solicitors Messrs. Wignam and Company of London.

I was informed by Mr Aird that Messrs. Wignam and Co., which was the firm which extracted the fact of probate of Mr Clifton's will, deny ever receiving any documents relating to Titles, Manors and Lands. I have no evidence as to whether Mr Urry handled Mr Clifton's affairs because the latter was unwilling or incapable of handling them himself.

By a conveyance made on 8 January 1982 Mrs Atkinson as Mr Clifton's personal representative conveyed to Mr Hilton for the sum of £5,000 all the Titles, Lordships, Common Land, Waste Land, Manorial Rights Privileges and Minerals relating to the following Retfford, Ollerton, Boughton, Eakring, Wellow and Ompton all of which (as was recited) were owned by Mr Clifton at the date of his death.

As Mr Urry did not attend the hearing it was not possible to ask him whether he obtained a receipt for the documents he allegedly lodged with Messrs. Wignam and Co and, if not, why not. Similarly if, as appears probable, Messrs. Wignam & Co prepared the affidavit to lead to the Grant of Probate, they could not be asked for the sources of their information.

Particulars of the Manors conveyed by the conveyance dated 20 August 1940 and set out in part 1 (B) of the First Schedule sub paragraph (3) of which is in these terms 'ALL THAT' the Lordship or reputed Lordship of the Manor of Eakring together with the Vendor's interest in Mansey Common and Penny Pasture Common subject to Commoners Rights of Pasturage thereon particulars whereof are as follows.

| No on Ordnance Survey Map. (Latest edition) Eakring. | Tenant | Description | Area Acres | Total area a.v.p |
|--|--------|----------------------|---------------|---------------------|
| 231 | - | Mansey Common | 33.528 | |
| 228 | - | - | 1.169 | |
| 227 | - | - | 1.059 | |
| | | | <u>35.756</u> | |
| 154 | | Penny Pasture Common | <u>17.326</u> | |
| | | | | <u>53.0.13.</u> |

In March 1985 Messrs. Shacklocks Solicitors of Sutton-in- Ashfield wrote to the office of the Commons Commissioners claiming ownership of Register Unit No.CL.32 on behalf of a client. The firm did not appear at the hearing on 4 June 1985.



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There is no specific reference in the 1940 conveyance to the land comprised in Register Unit CL.32 which is described as 'Enclosed Common Eakring'. In a case, heard later on the same day relating to 'Hop Pole Car Park' (reference 228/U/26 Register Unit No.CL.62) ownership which was also claimed by Mr Hilton on the strength of the 1940 conveyance a copy conveyance was produced which showed that the Register Unit had been specifically conveyed to a Brewery Company in 1938.

In my judgment I must limit my reliance on the 1940 conveyance to Mr Clifton to property which is specifically described in that conveyance and decline to accept the 1940 conveyance as giving him any interest in other land which is only described in general terms in the absence of supporting evidence.

In this evidence I am satisfied that Mr ^{Hilton}~~Clifton~~ is the owner of the land comprised in Register Units Nos CL.30 and CL.31 and I shall accordingly direct the Nottinghamshire County Council, as registration authority, to register him as the owner of such land under section 8 (2) of the Act of 1965.

I am not satisfied that any person is the owner of the land comprised in Register Unit No.CL.32 and it will therefore remain subject to protection under section 9 of the Act of 1965.

The hearing scheduled for 26 February 1985 was adjourned at Mr Holton's request and I granted the adjournment on terms that Mr Hilton paid the expenses of any person who had attended the hearing. To any person whose application for the payment of such expenses to Mr Hilton or his solicitors is refused I give liberty to apply for a formal order for the taxation of such costs.

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

8th

day of

July

1985

Leura Harker

Commons Commissioner