



In the Matter of The Green, Tetsworth, Oxfordshire

DECISION

This reference relates to the question of the ownership of land known as The Green, Tetsworth, being the land comprised in the Land Section of Register Unit No. VG 85 in the Register of Town or Village Greens maintained by the Oxfordshire 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 J E Hope and the Tetsworth Parish Council each 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 a hearing for the purpose of inquiring into the question of the ownership of the land at Oxford on 25 November 1982.

At the hearing I gave leave for Mr Hope to be represented by Mr D Ford, his land agent, and the Parish Council was represented by Mr W A Stoakes, its Vice-Chairman.

The Parish Council manages the land in question under the powers delegated to it by the former Bullingdon Rural District Council under a Scheme of management made on 23 April 1951 under the Commons Act 1899. In the early 1970's the Parish Council erected a sports pavilion on the land and extended it in 1978. On both occasions the permission of Mr Hope was sought and obtained.

Mr Hope claims to be the owner of the land as lord of the manor of Tetsworth, the lordship of which was conveyed to him by a conveyance made 22 May 1964 between (1) Harold James Wilkins and Frank Percival Wilkins (2) Joseph Ernest Hope. By virtue of Section 62(3) of the Law of Property Act 1925 this conveyance operated to convey to Mr Hope all commons appertaining or reputed to appertain to the manor.

It appears from the account of the parish of Tetsworth in the Victoria County History of Oxfordshire that there are three manors and several lesser estates in the parish and there is no evidence that the land in question is parcel of the manor of which Mr Hope is the lord. However, the fact that the Parish Council sought the permission of Mr Hope before erecting and extending the sports pavilion is some evidence that the land was reputed to appertain to his manor, which is sufficient to bring it within section 62(3) of the Act of 1925.

On this evidence I am satisfied that Mr Hope is the owner of the land and I shall accordingly direct the Oxfordshire County Council, as registration authority, to register him as the owner of the land under section 8(2) of the Act of 1965.

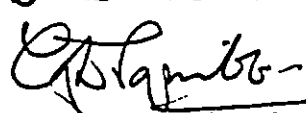
I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this

10<sup>th</sup>

day of December

1982

  
Chief Commons Commissioner



Mr Nixey told me that he had seen the 1841 tithe award for the parish, but was unable to produce a copy of the relevant part. However, he said that in the ownership column there was no entry relating to Tetsworth Common and that it was stated that the tithe rent charge was payable by the owners of the rights of common. Mr Nixey and Mr Claridge ploughed the land in 1977 and have taken five cereal crops from it. They have also cut down some trees on the land. On this evidence Mr Nixey asked that he and Mr Claridge should be registered as the joint owners of the land.

There is, in my view, insufficient evidence to prove that Mr Nixey and Mr Claridge have acquired a possessory title to the land. I would be unwilling to found a decision upon a tithe award which I had not seen, but Mr Nixey's account of the award in this case seem to indicate that a gross rent charge was awarded in respect of the tithes of a gated or stinted pasture. The liability for such a rent charge would be a joint one on all the owners of gates or stints, since it was not until the enactment of Section 19 of the Tithe Act 1860 that such a gross rent charge could be apportioned pro rata on the gates or stints. If this was the position, the award would not show that the owners of the rights were also owners of the land over which they were exercisable.

In the absence of any further evidence 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 10th day of December 1982

  
Chief Commons Commissioner

PLEASE NOTE THAT THE FIRST PAGE OF THIS DECISION IS ON PAGE 256