



COMMONS REGISTRATION ACT 1965

Reference No. 58/U/10

In the Matter of a tract of land near Wye Lodge, RhayaderDECISION

This reference relates to the question of the ownership of land known as a tract of land near Wye Lodge, Rhayader, being the land comprised in the Land Section of Register Unit No. CL.70 in the Register of Common Land maintained by the Radnorshire 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. and Mrs. A. S. Sowman claimed to be the freehold owners of such part of the land in question as is coloured red on the attached plan, and Miss E. A. Vaughan claimed to be the freehold owner of the remainder of the land in question (such remainder being coloured green on the said plan). 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 land at Llandrindod Wells on 6th June 1973.

The hearing was attended by (1) Councillor D.M. Lloyd, a member of Rhayader Parish Council, on behalf of the Parish Council (the applicant for registration), and (2) Mr. D.P. Jones, Solicitor of the firm of Messrs. H. Vaughan Vaughan & Co., Builth Wells, who represented the Claimants i.e., Mr. and Mrs. A. S. Sowman of Wye Lodge, Rhayader, and Miss Elizabeth A. Vaughan c/o 50 High Street, Builth Wells.

Councillor Lloyd produced the Rhayader Parish Award of 1829, which allotted a "public carriage road or highway of the width of 15 feet from the turnpike road leading from Rhayader to Builth opposite Venindre Tan Yard and leading southwardly to the River Wye". It appears that at the date of the Award there was a ford in the river at this point which was used by carts and carriages, thereby avoiding payment of bridge tolls. On the strength of the Award, the Parish Council claimed ownership of the western strip of the land in question i.e., the portion connecting the main road Rhayader to Builth Wells with the river and adjoining the western boundary of Wye Lodge. Mr. Lloyd also testified that the Parish Council had in the past employed a man to keep this place tidy, but he was unable to say that any maintenance work had been carried out since 1955.

Mr. A. S. Sowman gave evidence and produced the title deeds relating to Wye Lodge. He and his wife purchased Wye Lodge in 1971, and since then they have maintained the road on the western strip and have put hard core on it almost down to the river. They have also maintained the verges in a tidy condition. Mr. Sowman acknowledged that there were public rights of way over the road.

Mrs. C. E. Lewis, who has been the tenant of Felindre (which adjoins Wye Lodge) since 1956, testified that the road and verges on the western strip have been continuously repaired or kept tidy by the successive occupiers of Wye Lodge since 1956. She had not seen any employee of the Parish Council do any work on this strip of land. She also testified that the occupiers of Wye Lodge have since 1956 kept the river bank on the south side of the garden of Wye Lodge in a tidy condition.



-2-

As regards the remainder of the land in question (coloured green on the attached plan), Mrs. Lewis testified that, when she became tenant of Felindre in 1956, this land was a wilderness and infested by rats. She consulted her landlord's solicitor Mr. D.P. Jones, who told her that she could clean it up. Accordingly, in 1957, she cleared away the weeds and brambles, and converted the land into a pleasant lawn. She has ever since so maintained it, without objection from anyone. Mr. D.P. Jones produced the title deeds of Felindre, which was acquired by his client, Miss E. A. Vaughan, now an old lady, in the year 1955. He has managed her affairs for many years.

I entertain no doubt, that Miss E. A. Vaughan has acquired a title by limitation to the green land, to which the Parish Council lays no claim. The Parish Council does not claim ownership of the river bank alongside the southern boundary of Mr. and Mrs. Sowman's garden, and I observe that the plan on the Conveyance dated 29th September 1917, by reference to which Wye Lodge was conveyed to Mr. and Mrs. Sowman in 1971, shows the land belonging to Wye Lodge (formerly called Wye Villa) as extending to the edge of the river. Bearing these facts in mind, and having regard to the acts of ownership exercised over the river bank by Mr. & Mrs. Sowman and their predecessors in title for upwards of 12 years, I am satisfied that Mr. and Mrs. Sowman have established their ownership of the river bank. This finding is, of course, without prejudice to any right that may be on the part of fishermen to pass along the bank.

The position as to the western strip is more doubtful. It is settled that an adjoining owner can by adverse possession for the requisite period acquire a title by limitation to land allotted by an Inclosure Award as a highway: see Smith -v- Stocks (1869) 17 WR 1135. On the evidence, I am satisfied that Mr. and Mrs. Sowman and their predecessors in title have for upwards of 12 years assumed control over and possession of the western strip, subject only to their acknowledging the public rights of way thereover. I am also satisfied that the Parish Council has not for upwards of 12 years exercised any acts of ownership over the western strip. Mr. and Mrs. Sowman and their predecessors have not fenced in the land, but fencing is not essential to the acquisition of a statutory title, especially where the land is subject to admitted public rights of way. On the whole, I think it is right to conclude (as I do) that Mr. and Mrs. Sowman have acquired a title under the Limitation Act 1939 to the western strip, subject to the public right of way thereover.

For these reasons I am satisfied that (1) Mr. & Mrs. Sowman are the owners of the land coloured red on the attached plan and I shall accordingly direct the Radnorshire County Council, as registration authority, to register them as the owners of the land coloured red under section 8(2) of the Act of 1965; and (2) that Miss E.A. Vaughan is the owner of the land coloured green on the said plan, and I shall accordingly direct the Radnorshire County Council as registration authority to register her as the owner of the land coloured green 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 23rd day of July 1973.

A. E. Francis

Commons Commissioner