

COMMONS REGISTRATION ACT 1965

Reference No. 58/D/14

In the Matter of Part of Radnor Forest
 (Imperial Metal Industries Firing Range)
 Llanfihangel Nantmellan and New Radnor
Powys

DECISION

This dispute relates to the registration at Entry No. 1 in the Rights Section of Register Unit No. CL.61 in the Register of Common Land maintained by the Powys County Council and is occasioned by Objection No. 963 made by Economic Forestry Limited and noted in the Register on 10 August 1972.

I held a hearing for the purpose of inquiring into the dispute at Llandrindod Wells on 6 January 1975. The hearing was attended by Mr. G W Roddick of Counsel, instructed by Messrs. Dilwyn Jones & Sons for the Applicant, John Downes Price of Kitchen Farm, Walton; and by Mr. Roy Woolley of Counsel, instructed by Messrs. Iliffes, for the Objector Economic Forestry Ltd.

The right of common registered by Mr. J.D. Price is a right "to graze over part of the common land in this register unit, namely, Great Rhos, 100 sheep only, subject to the rights of the landlord of the Hill Lands, Great Rhos (Imperial Metal Industries (Kynoch) Ltd) as described in the conveyance dated 21 December 1949 ... and the right of the landlord to use the land or any part of it as an ammunition range".

It was common ground before me that the part of the common land over which this right was claimed included Esgairnantau ; in other words, the land includes the whole of the land comprised in C.L. 61 which lies to the west of Harley Dingle.

By the conveyance dated 21 December 1949 the late Sir Henry William Duff Gordon conveyed to Mr. Price in fee simple the two farms known as Kitchen Farm and Pool Redding and "All that the right of grazing for one hundred sheep only on the hill land known as Great Rhoss Hill New Radnor ... (In common with the Vendor and all other persons entitle to a like right)... Except and Reserved unto the Vendor and his successors in title the freehold in the said Hill and the sole right of sporting over the same and of burning heather gorze and fern thereon and the sole right of cutting turf or peat and also the sole right to all timber and other trees and all mines minerals and mineral substances in or under the said Hill and the full right of getting felling raising and removing the same without compensation to the Purchaser and ... the right to plant or replant with young trees the whole or any portion of the said Hill and to fence the portion or portions so planted for the protection of the trees without being liable to the Purchase for loss or ~~diminution~~ of the said grazing rights."

In his submission to me, Mr. Roddick appeared to rest his case, not merely on the express grant of the grazing rights in the Conveyance of 1949, but also on (a) the fact that the registration of the land as common land had become final (b) statutory

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Conveyance of 21st December 1949, and, indeed, that is the only right which he has registered. I am satisfied that the right of grazing so granted to Mr. Price is a right of common for the purposes of the Commons Registration Act 1965, notwithstanding the fact that it is subject to the rights reserved to the freeholder by the 1949 Conveyance.

For these reasons I 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

19th

day of

March

1975

A. E. Francis

Commons Commissioner