



COMMONS REGISTRATION ACT 1965

Reference No.45/U/115

In the Matter of School Garth,
Fenwick, Doncaster R.D., Yorkshire
West Riding

DECISION

This reference relates to the question of the ownership of land known as School Garth, Fenwick, Doncaster Rural District being the land comprised in the Land Section of Register Unit No.CL.223 in the Register of Common Land maintained by the West Riding 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 Fenwick Parish Meeting 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 Wakefield on 6 February 1974. The hearing was attended by Mrs. E. Hall who is the clerk of the Fenwick Parish Meeting.

Mrs. Hall who has lived in the Parish for the last 13 years and been clerk of the Parish Meeting for the last 5 years, gave evidence.

School Garth, which according to the Register contains about 0.210 acres, is enclosed by a thorn hedge (a gate on the road side). It is now used as an allotment (vegetable garden).

Mrs. Hall produced the Fenwick Parish Meeting Minute Books (1) from December 1894 to March 1912 and (2) from March 1912 to date. In every year between 1897 and 1973 inclusive (omitting 1940) the business of the Meeting included a letting, the record of which either expressly mentioned School Garth or expressly mentioned a rent and tenant the same as the rent and tenant mentioned in respect of some previous or subsequent letting of School Garth. The lettings from 1897 to 1901 were to Mr. T. Sa for 3/-; after that the rent varied between 3/6 and 10/- (except for 1904, 1905 and 1906 when it was 21-15-0, 21-0-0 and 12/6 and since 1971 when it was 25 np or 50 np). The lettings from 1923 to 1939 and from 1941 to 1945 were to Mr. Preston for 3/6; the 1940 omission is therefore in these proceedings of no significance.

Mrs. Hall said that the custom since she had been clerk had been to put the School Garth at the annual Parish Meeting, up to the highest bidder, that she understood this had always been the custom and that this was the reason why the rent fluctuated.

On the evidence outlined above, I conclude that the Parish are in possession of the School Garth and that it is practically certain that their possession will not be successfully disputed. Possession in such circumstances is equivalent to ownership.

Land held for the purposes of a parish which has no separate parish council is vested in the body corporate by the name of "the representative body" of the parish constituted by section 47(3) of the Local Government Act 1933, replacing section 19(6)



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of the Local Government Act 1894.

For the reasons outlined above, I am satisfied that the Representative Body of Fenwick is the owner of the land, and I shall accordingly direct the West Riding County Council as registration authority, to register the Representative Body of Fenwick 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 1st day of March 1974.

a. a. Baden Fuller

Commons Commissioner