



COMMONS REGISTRATION ACT 1965

Reference No. 35/U/17

In the Matter of Land called Cornard Mere, Little
Cornard, Babergh D., Suffolk

DECISION

This reference relates to the question of ownership of land near the Sudbury to Bures main road, east of Stone Farm and known as Cornard Mere, Little Cornard, Babergh District (formerly Melford Rural District) being the land comprised in the Land Section of Register Unit No. CL.23 in the Register of Common Land maintained by the Suffolk 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 Little Cornard Parish Council claimed to be the owner of part of the land in question; no other person claimed to be the freehold owner of the land or 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 Bury St. Edmunds on 25 and 26 June 1974. On the first day of the hearing, Little Cornard Parish Council were represented by Mr. V.H. Ward, their chairman and the Suffolk County Council as registration authority were represented by Mr. P.R. Freeth.

The land comprised in this Register Unit is (as appears on the inset map relating to it and forming part of the Register map) in two parts:- Ordnance Survey No. 241 containing 11.310 acres, and No. 270 containing 5.015 acres. It is on the east side of, and (as I scale the map) about 100 yards from the said main road, A.133.

Mr. Ward produced a copy (sealed by the Tithe Commissioners of 17 January 1845) of the Tithe Award dated 30 September 1844 and made for the Parish of Little Cornard; he had obtained this from the Secretary of the Parochial Church Council. Mr. Sergeant, County Archivist, produced from the County Record Office another copy of the same Award, and to this copy (unlike that produced by Mr. Ward) there was a map attached.

Mr. Ward who has lived for 21 years in the Parish, has been a member of the Parish Council for the last 4 years and chairman for the last 2 years, gave evidence, in the course of which he identified O.S. No. 241 with the land in the Schedule to the 1844 Award described as:- (Land owners) "Little Cornard"; (Occupiers) "Parishioners"; (Number referred to on Plan) "416"; (Name and description) "Pt. of the Mere"; (State of Cultivation) "Pasture"; (Quantity...) "12.3.35". In the schedule, the columns headed "Amounts of rent charge apportioned" and "Remarks" were in respect of this number (416) blank. Mr. Ward said (in effect):- O.S. No. 241 is now rough overgrown pasture with reeds. Recently the Parish Council let it to the Suffolk Trust for Nature Conservancy



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for 21 years at a peppercorn rent; the land is interesting for its rare plants, particularly the bog bean. He understood that O.S. No. 270 is owned by Mr. H.J. Cardy, and thought that his non-representation (on the first day of the hearing) may have been due to a misunderstanding; he offered to speak to Mr. Cardy and suggest he attended on the following day. On the second day of the hearing, Mr. H.J. Cardy was represented by Mr. R.J. Marshall, solicitor of Steed & Steed, Solicitors of Sudbury. On behalf of Mr. Cardy evidence was given by Mr. A.S. Williamson, clerk employed by Messrs. Steed & Steed and by Mr. G. Cook who lives at Great Cornard and who has known the land comprised in this Register Unit for 20 years and upwards.

Mr. Williamson produced three conveyances dated 28 September 1937, 9 February 1957, and 28 October 1963, all held by the Bank as mortgagees of Mr. Cardy. By the 1937 conveyance lands therein described expressly including O.S. No. 270 were conveyed to Mr. H.W. Cardy. By the 1957 and 1963 conveyances, pursuant to an option given by the will of Mr. H.W. Cardy (he died on 2 November 1957), O.S. No. 270 was conveyed by his personal representatives to his son Mr. H.J. Cardy.

Mr. Cook said (in effect) that he had known Mr. H.W. Cardy and knew Mr. H.J. Cardy and was well acquainted with Cornard Mere. They successively farmed O.S. No. 270; at one time it was meadow land; some years ago it was combined with some adjoining land, owned by the Cardys and ploughed; since then the combined area has been cultivated by Mr. H.W. Cardy and Mr. H.J. Cardy as part of their farm.

The 1844 Award is in my view evidence that O.S. No. 241 was then land "belonging" to the Parish in the popular sense of that expression, and therefore also evidence that it was vested in the Churchwardens and Overseers of the Parish in accordance with the principles set out in Doe v. Terry (1835) 4 A. & E. 274 at page 281 and recognised in Haigh v. West 1893 2 Q.B. 19 at page 31. Nothing having happened to divest the Churchwardens and Overseers, having regard to the evidence of Mr. Ward and to the Overseers Order 1927 (S.R. & O. 1927 No.55), I conclude that O.S. No. 241 is now vested in the Parish Council.

On the evidence of Mr. Williamson and Mr. Cook as outlined above, I conclude that Mr. Cardy is the owner of O.S. No. 270.

For the above reasons I am satisfied that the Parish Council and Mr. Cardy are together the owners of the land in question, and I shall accordingly, pursuant to section 8 (2) of the Act of 1965, direct the Suffolk County Council as registration authority to register Little Cornard Parish Council as the owner of that part of land comprised in this Register Unit which is on the inset O.S. map relating to it and forming part of the Register map, No. 241 and to register Mr. Herbert John Cardy of Blackhouse Farm, Little Cornard, Suffolk as the owner of the part (the remainder) of the land which is on the said inset map No. 270.



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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 the notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 11th day of July 1974

a. a. Baden Fuller

COMMONS COMMISSIONER