



In the Matter of Part of Felixstowe  
Ferry Common, Suffolk Coastal D

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DECISION

This reference relates to the question of the ownership of land described above being the land comprised in the Land Section of Register Unit No. CL 77 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 a number of claims to ownership of the land in question ("the Unit land") were made.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Ipswich on 14 December 1982. At the hearing (1) Mr R B Hayes, Solicitor, appeared on behalf of Mrs C E Jenkins (a claimant): (2) Mr N A Lamm, Solicitor, appeared on behalf of himself as executor of Mr H J Potter (a claimant) and of the executors of Miss D E K McCann (a claimant): and (3) Felixstowe Ferry Golf Club (a claimant) was represented by its Secretary, Mr A W Cornish.

(1) Mrs C E Jenkins's claim is to ownership of the parts of the Unit land coloured blue on the attached plan marked "CEJ". There are four such parts ("the blue areas"). Of these the most northerly (marked "Area A" on the plan) and the greater part of the area to the north of the Mission Church and marked "Area B" is part of the property comprised in a Conveyance dated 18 December 1945 Between (1) G M T Pretzman and (2) Constance Clark. A subsequent Conveyance dated 4 October 1945 between the same parties included the southernmost part (marked "Area D"). As to the fourth part (marked "Area C") I am not able to identify this as part of the property included in the Conveyances to Constance Clark submitted by Mr Hayes. Moreover as to Area B it is not clear from the plan on the 1945 Conveyance whether the northern section of this Area, lying on the north side of the Victoria Inn, was included in the property conveyed.

Constance Clark, whose full name was Constance Eugenie Clark, is now Mrs Jenkins and I am satisfied on the evidence that she is the owner of Area A, Area D and of Area B other than the northern section described above.

(2) Mr Lamm as executor of H J Potter claimed ownership of sections of the Unit land lying to the north east and to the south of the Martello Tower. By two Conveyances dated 14 February 1959 and 12 October 1962, both made Between (1) Ronald F Potter and (2) Harold James Potter and Keith W L Baxter there were conveyed to Mr H J Potter and Mr Baxter two areas of land which included parts of the Unit land. The two areas are (a) by the 1959 Conveyance the area coloured pink ("the P1 area") on the attached plan marked 'P1' (b) by the 1962 Conveyance the area coloured pink and yellow and hatched pink ("the P2 area") on the attached plan marked 'P2'. Mr Baxter died on 26 September 1981: Mr H J Potter, the successor of the two joint owners, died on 28 October 1982 and his will was proved by Mr Lamm on 2 December 1982.



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On this evidence I am satisfied that Mr Lamm is the owner of the Legal estate in the parts of the Unit land ~~as~~ comprised in the P1 area and the P2 area.

(3) Mr Lamm as one of the three Executors of Miss Denise E K McCann claimed ownership of the Beach Hut site edged red on the two attached plans marked 'MPA1' and 'MPA2'. This claim is based on the evidence of Margaret Pirie Allen, another of the Executors, contained in a statutory declaration dated 13 December 1982. The evidence is to the effect that from 1961 until her death in 1980 Miss McCann was in possession of and exercised acts of ownership in respect of the site and the Beach Hut, on which she incurred expenditure and paid the rates. I am satisfied on this evidence that Miss McCann was owner of the site at her death and that the legal estate is now vested in her executors, Miss Allen, Mr M C Tosh and Mr Lamm to whom probate of Miss McCann's will was granted on 18 November 1980.

(4) The Golf Club's claim is to ownership of the small triangular piece of land lying to the south east of and some distance from the main area, the piece bearing the OS no. 470 ("the 470 piece"). Mr Cornish relied on the decision of Mr Commissioner Settle relating to CL 20 (Ref: 234/D/43-49) and also an Agreement dated 7 April 1966 Between the Trustees of the Golf Club and the Commoners of Felixstowe Ferry Common. CL 20 is a part of the Common which extends northwards from the boundary of the 470 piece. Since the hearing of this case, I have looked at the CL 20 file where it appears that the Golf Club had registered its ownership of CL 20: the matters affecting that registration were disposed of by agreement of the parties and the Golf Club did not have to adduce evidence to satisfy the Commissioner as to its ownership, nor indeed was Mr Commissioner Settle concerned with the ownership of the 470 piece included in CL 77. The Agreement of 1966 with the Commoners provides for the respective rights and obligations of the Golf Club and the Commoners over the Common including the 470 piece, but does not of itself furnish proof of the Golf Club's ownership of the 470 piece. On this inquiry as to ownership where none has been registered I am required to be satisfied in regard to any claim to ownership. On the evidence I am not satisfied that the Golf Club or any other person is the owner of the 470 piece.

In the result I shall direct the Suffolk County Council, as registration authority, to register Mrs C E Jenkins, Mr N A Lamm and the Executors of Miss McCann under section 8(2) of the Act of 1965 as owners respectively of the respective parts of the Unit land on which I am satisfied as to their ownership. The remainder of the Unit land will 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

10 February

1983

Commons Commissioner