



COMMONS REGISTRATION ACT 1965

Reference No. 234/U/183

In the Matter of part of Little Green, Burgate

DECISION

This reference relates to the question of the ownership of the land comprised in the Land section of Register Unit No. CL.164 in the Register of Common Land maintained by the Mid Suffolk County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Bury St. Edmunds on 5 June 1990.

At the hearing Mr H B Walrond, solicitor, of Messrs. Partridge and Wilson of Bury St. Edmunds represented Mr Peter John Holt Wilson (claimant) and Mr Herbert Hubbard and Mr D G Coe (claimants) appeared in person.

The unit land is a small part of a common known as Little Green, Burgate which is registered as CL.119 and of which Peter John Holt Wilson is finally registered as the owner.

What apparently happened was that when Little Green was originally registered as CL.119 for some reason the unit land of CL.164 was left out. In 1968, however, Mr Francis Charles Pointon registered a claim to a right of grazing over Little Green. The map accompanying his application correctly showed the whole of the common with the result that the CL.164 land was registered as a separate and additional unit.

Meanwhile Mr Holt Wilson's solicitors mistakenly (but, having regard to the small scale of the map, excusably) thought that CL.119 covered the whole of Little Green and registered his ownership of that unit without ever realising that a small part of it was separately registered as CL.164. No one objected to his claim and he became finally registered as the owner of CL.119.

Mr Holt Wilson's claim was that he, as the Lord of the Manor of Burgate, was the owner of all the common land at Burgate including the whole of little Green and so of the whole of the CL.164 land.

Mr Walrond produced:-

- (1) an assent dated 31 January 1927 whereby George Rowland Holt Wilson and the Reverend Leonard Holt Wilson as the executors of George Holt Wilson vested in George Rowland Holt Wilson among other property the Lordship of the Manor of Burgate
- (2) probate of the will of George Rowland Holt Wilson dated 2 October 1929 and granted to Gwendoline Wilson, John Holt Wilson, Oliver Holt Wilson and Thomas Holt Wilson



(3) an assent dated 25 October 1930 whereby Gwendoline Holt Wilson, Oliver Holt Wilson, John Holt Wilson and Thomas Holt Wilson vested in John Holt Wilson among other property, the Lordship of the Manor of Burgate

(4) probate of the will of John Holt Wilson dated 9 January 1964 and granted to Thomas Wilson, Henry Humphrey Richard Methwold Walrond, David Alston and Jessie Howie Wilson

(5) the death certificate of Thomas Wilson who died on 22 May 1972

(6) an assent dated 9 February 1978 whereby Henry Humphrey Richard Methwold Walrond, David Alston and Jessie Howie Wilson vested in Peter John Holt Wilson among other property the Lordship of the Manor of Burgate.

On that evidence I am satisfied that Peter John Holt Wilson is the Lord of the Manor of Burgate a fact which no one seems to deny.

The remaining question is whether Little Green is part of the waste land of the Manor of Burgate.

As to that Mr Holt Wilson gave evidence that both his father during his lifetime and he himself since he inherited the manor had always been treated as the owners of the unit land, had been asked and had given permission to householders to cut the grass in front of their houses and had granted wayleaves over the land to the electricity and telephone authorities and been paid for them.

When Mr Pointon sold his farm which borders the common a few years ago the purchaser had cut down some trees on the unit land. He, Mr Holt Wilson had remonstrated with the purchaser for cutting down trees on common land which he owned as Lord of the Manor and had compromised the matter on the terms that the land should be replanted. No one had suggested that he was not the owner of the common.

Squadron Leader Thomas Hughes gave evidence that he was a Parish Councillor and Chairman of their Commons Committee. He had known the land for 50 years and had always understood that it was part of the waste of the Manor of Burgate. In any dealings with the land the Parish Council always dealt with Mr Holt Wilson as owner.

This evidence standing unchallenged and uncontradicted and supported by the fact that when he registered his ownership of the rest of Little Green no one objected convinces me that Peter John Holt Wilson is the owner of the whole of the unit land.

Mr Herbert Hubbard claimed ownership of a small part but when his conveyance was examined it appeared that it did not relate to any part of the unit land.

Mr D G Coe produced a copy of a receipt dated 10 May 1900 for £7.1.8 "for the redemption of the annual free rent of five shillings and eight pence arising out of certain lands situate at Burgate Suffolk", but this does not establish a title to any part of the unit land.



I shall accordingly direct the Mid Suffolk County Council, as registration authority, to register him 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

7th

day of

June

1990

Peter Lamson-Davies

Chief Commons Commissioner