



COMMONS REGISTRATION ACT 1965

Reference No. 236/U/129.

In the Matter of Banks Lane,
Effingham, Guildford District,
Surrey

DECISION

This reference relates to the question of the ownership of land known as Banks Lane (leading from Effingham Common to Banks Common), Effingham. Guildford District being the land comprised in the Land Section of Register Unit No. CL60 in the Register of Common Land maintained by the Surrey 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: (1) Effingham Parish Council said (letter 5 September 1979):- Bank's Lane was part of the Manor at East Court. The late Mr R R Calburn gave Banks Common to the National Trust in 1925 but retained Banks Lane. In a sworn statement of 25 March 1936 the late Mr R R Calburn claimed ownership but admitted right of access over it by the public. Mr Calburn's successors in title, Effingham Manor Estates Ltd did not include Bank's Lane in the maps accompanying their objections to the claimants of rights over East Court. There is a public bridleway over the lane. And (2) Mr A Estler of Lee Brook said (letter of 22 October 1979):- He had a copy of an indenture dated 21 January 1922 by which Mrs Tristram conveyed to Mr R R Calburn, Hooke Common, Banks Common and Banks Lane. Hooke Common remained in the possession of his heirs at the hearing at Guildford on 2 December 1975, so presumably did Banks Lane. Mr R R Calburn's interest passed to his son Mr C C Calburn who died about a year ago.

Following upon such public notice no person 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 Guildford on 28 November 1979. At the hearing Effingham Parish Council were represented by Mrs D L Worthington one of their members and Mr Adrian George Estler attended in person.

The land ("the Unit Land") in this Register Unit is a strip about $\frac{1}{2}$ a mile long and nowhere more than about 25 yards wide. There is one registration in the Rights Section made on the application of Mr Estler, ~~whose~~ ^{and the} Land Section registration was made in consequence of such application, but there is a note in the Register of an application by Guildford Rural District Council.

Mr Estler produced his said copy of the 1922 indenture from the map annexed to which appeared that the Unit Land had been conveyed as he said.

Mrs Worthington said that she understood that the address of Effingham Manor Estates Lt. ("EMEL") is or was 45 Brompton Square, London, SW3.

The information I had at the hearing as above summarised in my view falls short of showing that EMEL are the owners of the Unit Land. In the absence of any evidence that any other person could be the owner, I am not satisfied that any person is the owner of the Unit Land and it will therefore remain subject to protection under section 9 of the Act of 1965.



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I have since the hearing read the decision dated 15 March 1976 given by the Chief Commons Commissioner Mr G D Squibb QC in the matter of Effingham Common (East Court), Hooke and Banks Commons, reference nos. 236/D/24-45 from which it appears that his hearing lasted for 5 days at Guildford and 2 days in London and that EMEL were represented before him by leading and junior counsel. It is I suppose unlikely that EMEL having given so much consideration to the adjoining commons would if they ever wished to claim ownership of the Unit Land have overlooked these proceedings. Nevertheless, because it is possible that there has been some mistake on their part, I give EMEL liberty within 2 months from the day on which a copy of this decision is sent to them at the address above mentioned liberty to apply to a Commons Commissioner to set aside this decision and re-open the hearing.* Any such application should in the first instance be made by letter to the Clerk of the Commons Commissioner.

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 18th — day of December 1979.

A. A. Bate Fuller

Commons Commissioner