



In the Matter of Three pieces of land at Arlescote,
Warrington, Warwickshire

DECISION

This reference relates to the question of the ownership of three pieces of land at Arlescote, Warrington, being the land comprised in the Land Section of Register Unit No. VG 138 in the Register of Town or Village Greens maintained by the Warwickshire 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 Mr R A Blakemore and Mr M S Burstall claimed to be the freehold owners of parts 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 Stratford on Avon on 19 May 1982.

There was no appearance at the hearing, but after the hearing Mr Burstall sent to the Clerk of the Commons Commissioners certified copies of his documents of title, and Mr Blakemore sent certified copies of his and his wife's documents of title. Since there had been no appearance on behalf of the Warrington Parish Council, I decided to proceed with the matter without re-opening the hearing.

By a deed made 10 October 1933 between (1) Thomas Loveday (2) Mildred Loveday (3) Alan Ralph Tatham and John Loveday (4) Sarah Loveday and Charity Mildred Loveday a part of a property known as the Arlescote Estate was conveyed to the parties of the fourth part. By a deed made 13 December 1938 between (1) T Loveday (2) Markham (formerly Loveday) and C M Loveday the remainder of the Arlescote Estate was conveyed to Mrs Markham and Miss Loveday. In the parcels of the 1938 deed the remainder of the Arlescote Estate was described as Arlescote House and land coloured pink on the plan drawn on the deed and all Mr T Loveday's rights, estate, and interest of and in the land coloured green on the plan whether as beneficial owner or otherwise. The land coloured green included all the three pieces of land the subject of the reference.

By a conveyance made 9 September 1970 between (1) ^SMarkham and ^CJames (formerly Loveday) (2) Samuel Blakemore and Roger Anthony Blakemore, Arlescote House was conveyed to Mr S Blakemore and Mr R A Blakemore together with the other pieces or parcels of land specified in the First Schedule to the conveyance with the boundaries delineated for the purposes of identification on the annexed plan and thereon coloured pink. Part of the land coloured green on the plan drawn on the deed of 10 October 1933 (including a triangular piece of land the subject of the reference) is shown coloured green on the plan annexed to the conveyance of 9 September 1970, but is not included in the parcels of the conveyance which contain, in addition to the land coloured pink, only the right so far as the vendors had power to grant it to pass and repass over the pathways coloured blue on the plan, those pathways being shown as bounded on either side by the land coloured green.



By a conveyance made 13 September 1972 between (1) S Blakemore (2) Anglia Building Society (3) R A Blakemore, Mr S Blakemore conveyed and released to Mr R A Blakemore his interest in the property conveyed to them in 1970.

By a conveyance made 30 January 1976 between (1) R A Blakemore (2) Anglia Building Society (3) Mark Stephen Burstall there was conveyed to Mr Burstall an area in the south-east corner of OS. No. 89. The north-east corner of the above-mentioned triangular area is shown coloured green on the plan annexed to the conveyance, but this land is not mentioned in the parcels of the conveyance.

By a conveyance made 27 June 1977 between (1) R A Blakemore (2) Anglia Building Society (3) Midland Bank Ltd (4) Violet Eleanor Blakemore, Mr Blakemore conveyed to himself and Mrs Blakemore all the property the subject of the conveyances of 9 September 1970 and 13 September 1972 other than the land conveyed to Mr Burstall by the conveyance of 30 January 1976.

In a letter dated 30 June 1982 written on behalf of Mr Burstall by Messrs Blakemores, Solicitors, in which firm Mr R A Blakemore is the senior partner, it is stated that although it was intended that Mr R A Blakemore should convey "(as his Vendors had done)" all right, title, and interest in the land coloured green on the plan annexed to the conveyance of 30 January 1976 to Mr Burstall, that conveyance contains no such conveyance, and that they were hastening to remedy this omission by completing a short supplementary conveyance.

It is not, however, correct that Mr R A Blakemore's vendors had conveyed all right, title, and interest in the land coloured green. There is no mention in the parcels of the conveyance of 9 September 1970 of any right, title, or interest in the land coloured green.

In a letter to the Clerk of the Commons Commissioners dated 29 April 1982 Mr R A Blakemore stated:-

"I ought to add that to prevent the green being cut up by cattle from Home Farm, Arlescote on the other side of the road I fenced the green off some four or five years ago. I have also planted several lime and horse chestnut trees on the green during this period and have generally maintained and tended the green including mowing it during the summer months again during this period. None of the above activities have resulted in any objections, representations or claims whatsoever by any person or body."

Mr Blakemore was informed by a letter dated 11 May 1982 that the facts set out in his letter should be set out in an affidavit, but this was not done. However, I am prepared for the purposes of this decision to assume that the facts set out in Mr Blakemore's letter are capable of strict proof in accordance with reg. 22 of the Commons Commissioners Regulations 1971. These facts are far from sufficient to prove that Mr and Mrs Blakemore have acquired a possessory title to any of the land the subject of the reference.

So far as Mr Burstall's claim is concerned, the facts upon which Mr Blakemore relied occurred after the conveyance of 30 January 1976 and so could not assist Mr Burstall. Mr Burstall can have no better title to the part of the green land adjoining his



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property than Mr Blakemore had in 1976, and there is no evidence that Mr Blakemore had any title to such land.

There remaining to be considered whether Mrs Markham and Mrs James are the owners of the green land as the successors in title of Mr T Loveday. There is no evidence as to the nature of Mr Loveday's rights, estate or interest of and in that land. I have, however, been furnished with an affidavit by Mr J R Morris, a Chartered Surveyor, who managed the Arlescote Estate on behalf of Mrs Markham and Mrs James between October 1962 and September 1972. In his affidavit Mr Morris avers that the land coloured green on the plan drawn on the deed of 13 December 1938 was included in the Arlescote Estate by reason of the fact that the tenants of the two farms at Arlescote were made responsible for the maintenance and upkeep of these areas and furthermore did in fact maintain them by mowing or grazing them. In my view, this evidence is not sufficient to prove that Mrs Markham and Mrs James are the owners of any of the land the subject of the reference.

In the absence of any further evidence I am not satisfied that any person is the owner of the land, and I shall accordingly direct the Warwickshire County Council, as registration authority, to register the Warmington Parish Council as the owner of the land under section 8(3) 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

2nd

day of

November

1983

Chief Commons Commissioner