



COMMONS REGISTRATION ACT 1965

Reference No.38/U/59

In the Matter of Dial Green,
Lurgashall, West Sussex.

DECISION

This reference relates to the question of the ownership of land known as Dial Green, Lurgashall, being the land comprised in the Land Section of Register Unit No.CL.205 in the Register of Common Land maintained by the former West Sussex 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. G.F. Woodger claimed to be the freehold owner of part of the land in question and Lt.-Col.T.W.Owen claimed to be the freehold owner of the remainder of the land. 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 Chichester on 25th July 1974.

At the hearing Mr. P.J.R. Bathurst, solicitor, appeared for Col. Owen and Mr.D.Graham Smith, solicitor, appeared for Mr.N.W.Hosp. Mr. Woodger did not appear and was not represented.

The land the subject of the reference lies on the east and west sides of the main road at Dial Green. For the purposes of this decision it can be divided roughly into four parts - north, central, south, and south-west. Mr.Woodger claimed in a letter dated 10th August 1973 to have purchased the north, central, and south parts in 1950 from a Mr.D.A.Howard, who in turn had purchased them in 1943 from Cowdray Trust Ltd. By a conveyance dated 12th May 1973 Mr.Woodger conveyed the central part of the land to Col.Owen, and by a conveyance dated 1st September 1973 Mr.Woodger conveyed the south part to Mr.Hosp. There were no contrary claims and I am satisfied that Col.Owen and Mr.Hosp are now the owners of their respective parts.

The south-west part of the land lies immediately to the south of the curtilage of a house known as "Finches", which belongs to Mr.Hosp, who purchased it on 19th August 1970 from Mr.C.J.Rebbeck. Mr.Rebbeck purchased "Finches" in 1967 and stated in a statutory declaration that between 1967 and 1970 he had been in what he described as "full and undisturbed possession and enjoyment". Mr.Hosp stated that he had been in "undisputed possession" of the land and that it now forms part of the garden of "Finches". Mr.Hosp also stated that Mr.Rebbeck had a rubbish tip on the land and that it was overgrown when he first saw it in 1970. On the other hand, Mrs.L.K.Barnarr, who has lived at Rose Cottage, Dial Green, for over 60 years, gave evidence that Mr.Rebbeck did not use the land and that the fence between it and "Finches" was not taken down by Mr.Hosp's builders until about a month before the hearing, when they put building material on it. Mrs.Barnarr's evidence



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was corroborated by Mr.G.W.Bartlett, who has lived at Rose Cottage since 1966.

On this evidence I am not satisfied that Mr.Rebbeck and Mr.Hosp have been in adverse possession of the south-west part of the land long enough for Mr.Hosp now to have a possessory title to it. In the absence of any further evidence this part of the land will remain subject to protection under section 9 of the Act of 1965, as also will the north part of the land, as to the present ownership of which there is no evidence.

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 ~~4th~~ day of October 1974

A handwritten signature in black ink, appearing to read 'G. J. Lamb', written over a horizontal line.

Chief Commons Commissioner