



COMMONS REGISTRATION ACT 1965

Reference No 38/U/8

In the Matter of Hemner Hill, Harting
Midhurst R.D., West Sussex.

DECISION

This reference relates to the question of the ownership of land known as Hemner Hill, Harting, Midhurst Rural District, being the land comprised in the Land Section of Register Unit No CL.43 in the Register of Common Land maintained by the 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 A J Lewis wrote a letter dated 17 August 1972 to the Clerk of the Commons Commissioners stating that the land in question was part of Coxcombe Farm owned by his father Mr John Lewis. No other person claimed to be the freehold owner of the land or 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 11 January 1973. The hearing was attended by Mr Albert Joseph Lewis and Mr John Edward Lewis in person and by Harting Parish Council who were represented by Major-General L A Hawes (one of their members).

Mr A J Lewis in his evidence produced: (1) the will dated 4 May 1965 of his father Mr John Lewis ("the Testator") by which he and his brother Mr J E Lewis were appointed executors, (2) a conveyance dated 11 July 1961 by which Church & Lewis Limited ("the Company") conveyed land to the Testator and (3) a conveyance dated 5 July 1951 by which J H & F W Green Limited conveyed land to the Company. He said:- The Testator died on 25 October 1972, but his will had not yet been proved although he and his co-executor intended to prove it. The land ("the Unit Land") comprised in this Register Unit contained approximately 41 acres, in the main fairly reasonably level arable field except that there is on the eastern edge a steep bank with a narrow strip of woodland and at the north end there is also a narrow strip of woodland which provides cover for raising pheasants. The Company was a private company of which the Testator was director and shareholder. The land comprised in the 1961 conveyance was described in the schedule as containing 570.084 acres and included the Unit Land. The land comprised in the 1951 conveyance was described in the schedule as containing 1113.281 acres and included the Unit Land. At the death of the Testator the Company was in occupation as his tenant and the conveyances produced were held by him. The Unit Land was occupied with the rest of and has always been an integral part of the farm and he (Mr A J Lewis) did not know why it had been registered as common land.

General Hawes said that the Parish Council had applied for the land to be registered because it was shown as down land in a Tithe Map dated 1821, because in the Tithe Award although nearly all the other pieces of land were therein described as having an owner, no owner was shown in respect of Hemner Hill, and because up to the first World War Hemner Hill was open down land used by everybody.



On the evidence of Mr A J Lewis as outlined above I was satisfied at the hearing that the Testator at his death owned the Unit Land, but not satisfied that I could properly regard Mr J E Lewis and Mr A J Lewis as the Testator's successors in title before his will had been proved. Since the hearing Mr A J Lewis has sent to the Clerk of the Commons Commissioners an office copy of a grant dated 20 February 1973 of probate of the will of the Testator granted out of the Winchester District Probate Register to Mr J E Lewis and Mr A J Lewis, and I am by such grant satisfied that they are the successors in title of the Testator. I shall accordingly direct the West Sussex County Council as registration authority to register Mr John Edward Lewis of Shadingfield, 61 New Brighton Road, Emsworth, Hampshire and Mr Albert Joseph Lewis of Lucerne, Horndean Road Emsworth, aforesaid as the owners 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

5th

day of March 1973

a. a. Baden Fuller

Commons Commissioner