



COMMONS REGISTRATION ACT 1965

Reference No 238/U/10

In the Matter of Manorial Waste on the west side of the Kirdford-Pallingham road, Kirdford, Chichester District, West Sussex

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DECISION

This reference relates to the question of the ownership of land known or described as Manorial Waste on the west side of the Kirdford-Pallingham road between Round Wood and the property known as "Roundwoods", Kirdford, Chichester District being the land comprised in the Land Section of Register Unit No CL. 232 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.

After the registration, West Sussex County Council were notified that Sussex Trust for Nature Conservation Ltd claimed ownership. Following upon the public notice of this reference Mrs Gretta Atkins of Roundwoods in a letter dated 15 March 1975 gave some information about the use of the land and of a licence relating to it granted by the Leconfield Estate. No other person claimed to be the freehold owner of the land in question 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 April 1978. At the hearing (1) Sussex Trust for Nature Conservation Limited ("the Trust") were represented by Mr F Penfold their chairman, and (2) Mrs Gretta Atkins attended in person. Also present was Mr R G Atkins on whose application the registration was made.

Mr Penfold in the course of his evidence produced a conveyance dated 16 October 1973 by which Mrs B E Mitford and Mr J B M McK Forbes conveyed to the Trust some hundreds of acres of land. He said (in effect):- The land ("the Unit Land") comprised in this Register Unit contains about 0.25 of an acre (on the Register map it is shown as a narrow triangular piece with its shortest side by the public road); it is part of Roundwood Common (included in the said conveyance) and is not fenced from it in any way. The land comprised in the 1973 conveyance was part of the Mitford Estate and such conveyance shows that it was at one time owned by Mr W S Mitford who died 1 June 1966. He (Mr Penfold) had not with him any of the other documents of title relating to the land so conveyed; he understood that they were with the solicitors for the Trust.

Mrs Atkins in the course of her evidence said (in effect):- In 1967 she bought Roundwoods, a dwelling house on enclosed land fronting on the road and on the northwest side of the Unit Land. For the benefit of Roundwoods there was an "easement" over the Unit Land from the Leconfield Estate for which she paid 10/- a year; the easement was for the use of the road or track (private) which ran from the public road along much of the length of the Unit Land and then turned northward providing access to Roundwoods. Considering the "easement" mentioned unsatisfactory, in 1975 she bought a permanent right of access from the Trust. She produced a



conveyance dated 1 August 1967 from Mr I H Williams to herself of Roundwoods as described in the 1935 conveyance and also an abstract dated 1936 of the title of her vendors and a licence dated 13 September 1935 by which Mr C W K Mitford granted to Mr W H Williams a licence to build a cattle drove (along the Unit Land).

Mr Penfold replying to Mrs Atkins' evidence said (in effect):- He was puzzled by her reference to the Leconfield Estate, who although they owned land in the neighbourhood had not claimed ownership of the Unit Land. He understood that Mr W S Mitford mentioned in the 1973 conveyance succeeded his father, Mr W K Mitford (the 1973 conveyance mentions a conveyance dated 7 August 1943 from him to his son).

After some discussion Mrs Atkins produced a receipt dated 23 September 1957 headed "Pitshill Estate" and signed by a person describing himself as agent to Captain W S Mitford.

As evidence of the ownership of the Trust of the Unit Land, the 1973 conveyance is not cogent, because on the plan annexed to it a strip of land on the northwest side of Round Wood (including the Unit Land) is hatched black, and the parcels of the conveyance contain the words "together with all such rights title and interest as the Vendors may have in the land hatched black" thus indicating that the Vendors or their advisers had some doubt as to their title to such land. However after some discussion with Mrs Atkins I was able to conclude from the documents she produced that in respect of the "easement" to which she referred the annual 10/- was paid not to the Leconfield Estate (as she at one time supposed) but to the Mitford Estate; on the basis that the Trust's predecessors in title had been receiving rent in respect of the Unit Land I can I think disregard the doubt their advisers must have had about their title and be satisfied (as I am) that the Trust are under the conveyance the owners of it. Accordingly I shall direct the West Sussex County Council as registration authority to register Sussex Trust for Nature Conservation Limited of Woods Mill, Henfield 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 5<sup>th</sup> day of May 1978

A. A. Baker Fuller

Commons Commissioner