



COMMONS REGISTRATION ACT 1965

Reference No 238/U/13

In the Matter of Old Pond and Ground,  
Pill Common, Bury, Chichester District,  
West Sussex

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DECISION

This reference relates to the question of the ownership of land known as Old Pond and Ground, Pill Common, Bury, Chichester District being the land comprised in the Land Section of Register Unit No CL. 235 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.

When making this reference the County Secretary said (letter dated 21 January 1973) that Bury Parish Council claim the whole of the land under their 1854 Award. Following upon the public notice of the reference no person claimed to be the freehold owner of the land in question and no 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 11 April 1978. At the hearing Bury Parish Council were represented by Mr K V Rowsell their chairman.

Mr Rowsell produced from the County Archives a copy (certified 3 February 1953) of an award dated 8 November 1854 made under the Bury Inclosure Act 1841 (4 & 5 Vict. c. 4); this contained the following allotment:- "We...do hereby set out a common pond on Pill Common and the land adjoining thereto for the use of all the inhabitants of the said Parish of Bury containing together by statute measure three roods and thirty-two perches and numbered 528 on the said plan hereto annexed and we...direct that the said pond shall be cleaned and maintained by and at the expense of the churchwardens and overseers for the said Parish of Bury for the time being."

Mr P E Grinsted who is 71 years of age, has lived in the Parish all his life, been a member of the Parish Council since 1941, is now vicechairman, and has been chairman from 1969 to 1974, in the course of his evidence said (in effect):- The Unit Land is a very long strip of ground, overgrown rather, with a stream running through it and with a footpath along one side. It starts at the end of a (road) cul de sac, and the footpath (now very little used) leads to the Bignor road. As to the registration in the Rights Section (made on the application of the Parish Council of a right held in gross by the inhabitants and their successors of the Parish of Bury to enter upon the land and to take and carry away fish), the Unit Land is not now suitable for this purpose, and indeed much of what was pond is now a quagmire. But when he was young there was much more water. The Unit Land lies between agricultural land, there being fences on both sides. He had always considered that the Unit Land belonged to the Parish Council but he could not say that they had ever done anything to it.

The evidence summarised above falls short of showing that the Parish Council have a possessory title to the land, so they can only now be the owners if the churchwardens



and overseers as their predecessors became such under the 1841 Act and the 1854 Award. Unfortunately neither the Act nor the Award contains any words expressly conferring ownership; however as I read them the intention must have been that this land should belong to the Parish in the "popular sense of that expression" within the meaning of these words as used in *Doe v Terry* (1835) 4 A&E 274 at page 281, and I can therefore conclude that following *Doe v Hiley* (1830) 10 B&C 885 that the land under the Award vested in the churchwardens and overseers as a body corporate established by the Poor Relief Act 1819 for the purpose of holding all lands belonging to the Parish, notwithstanding that such lands were not acquired for the purposes relating to the poor. For the above reasons I am satisfied that the Parish Council as successors of the churchwardens and overseers mentioned in the 1854 Award are the owners of the land and I shall accordingly direct the West Sussex County Council as registration authority to register Bury Parish Council 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 *24<sup>th</sup>* day of *May* —

1978

*A. B. J. J. J.*

Commons Commissioner