



In the matter of Roundstreet
Common (Part) Loxwood, West
Sussex.

DECISION

This reference relates to the question of the ownership of two small pieces of land part of Roundstreet Common, Loxwood, being the land comprised in the Land Section of Register Unit No CL 52 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 and Mrs D C Parcell, Mr and Mrs J G Piper and Mr J Holmes severally claimed to own the whole or parts of the two pieces of land 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 Chichester on 16 November 1984.

At the hearing Mrs G Frankland represented the Registration Authority, Mr Parcell appeared for his wife and himself, Mr Piper appeared for his wife and himself and Mr Holmes appeared in person.

Mr Piper said in evidence he had acquired the property now known as Mariner's Oak and formerly as Old Oak Cottage under the Will dated 29 January 1983 of his Aunt Mrs Mary Jean Parcell who died on 24 December 1983 and whose Will was proved in the Principal Registry of the Family Division of the High Court on 28 March 1984 by the Executors named therein. Mrs Parcell and her husband Major Ronald Peters Parcell had purchased the property from Mr and Mrs Kenyon in 1973 and the Kenyons had purchased it in 1969 from Norman Charles Burrage. Mrs Parcell and her husband owned the property in joint tenancy and on his death on 23 March 1982 his widow became solely and beneficially entitled to the joint property by survivorship.

Mr Parcell said that he claimed to have acquired a possessory title to own ^{both} pieces of land which are showed edged red on the plan which will be annexed to the copy of this decision which is sent to the Registration Authority. The northern piece is claimed by Mr and Mrs Parcell and by Mr and Mrs Piper. The Southern piece is claimed by the Parcells and by Mr Holmes.

Mr Parcell read from a Statutory Declaration made on 8 June 1973 on the sale of the Mariners Oak to the Parcells. The Declaration is made by Leonard Kenyon. The Conveyance purports to include the Vendors' interest in two pieces of land adjoining on its eastern boundary the property which was comprised in the Conveyance from Burrage in 1969. Paragraphs 2 and 4 state that there was a fence in position before the date of purchase along the northern boundary of the property and the Northern and Eastern boundaries of the land



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hatched black and cross hatched black on the plan attached to the Statutory Declaration.

The witness said that the area cross hatched on the plan was part of the land claimed by him. He had seen a fuel tank in this area which had been there since 1969 and was still there. Other objects and materials were kept on the area.

There was a barn on the eastern boundary of the cross hatched area the side of which formed the Eastern boundary of the cross hatched land. His uncle used the area until he died. He visited his aunt and uncle regularly at least once every year.

In 1973 the Barn was a timber framed building in a dilapidated condition. The witness claimed a $\frac{1}{2}$ interest in the barn which was used as a garage, $\frac{1}{2}$ of the floor surface was concreted. He also said with regard to the land between the barn and the road that his uncle regarded it as his property and did not clear it.

Mr. Parcell described the southern piece of land as an area of lawn between his cottage and the road. Several windows in his cottage look out on to the area, which his uncle and aunt had known since 1973. Mr Holmes Gardener mowed up to the southern edge of the area from Mr Holmes property. He produced a Conveyance dated 6 September 1928 which related to Holmbushes comprising a dwelling house and $17\frac{1}{2}$ acres of land which shows this strip of land terminating in a building but not included in the property conveyed.

Mr Piper said that Major Parcell has asked him to leave the strip between the barn and the road uncut. For that reason he did not keep the grass on the strip cut.

During Kenyon's time and afterwards he had walked between the fence and the barn. The old fence ran at an angle of 45° to the barn. The witness said that in 1972 he had purchased Holmebushes Nursery and the manorial rights attached to it. He did not claim to own the site of the barn. He would have kept the area mown and tidy if Mayor Parcell had not asked him to leave it uncut.

As to the other strip of land Mr Piper said that Holmbushes was the farmhouse for the whole area and in the absence of a rival claimant he must be the owner.

Mr Holmes said that he would not oppose the claim of Mr Piper or Mr Parcell to the southern piece of land but if neither was successful he would claim the area himself as the successor in title of Holmbushes.



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The northern strip of land can for the purposes of this decision be divided into three sections from West to East, (a) the fence to the barn/garage (b) the site of the barn garage and (c) the area between the garage and the road.

(a) This is the cross hatched area already mentioned and in my opinion the evidence established that Mr and Mrs Parcell have a title by adverse possession which was acquired in about 1981.

(b) The garage was said to be owned as to $\frac{1}{2}$ ths by the Parcels and as to the balance by a party whose name was not given. There was also a suggestion that the division was $\frac{2}{3}$ rds/ $\frac{1}{3}$ rd. There is no evidence by way of title deeds or adverse possession to support any claim to ownership.

(c) The only evidence about the area between the barn and the road came from Mr Parcell who said that his uncle regarded the property as his own and did not clear it. Mr Piper said that he intended to maintain and mow the area but did not do so at the request of Major Parcell. It was suggested that Major Parcell used a claim to ownership to support this request.

The southern strip of land has been mown and maintained by two generations of Parcels since 1973. Maintenance of this strip which Mr Parcell described as an area of lawn between Mariners Cottage and the road was clearly desirable from the point of view not only of the occupants of the Cottage but also of other persons living in the area. There was no evidence of any fencing or any similar action which could be regarded as the assertion of a claim of ownership. In my view the Parcels have not established any adverse possession and even, if they have it has not been for a sufficient period to establish a possessory title.

Neither of the two standby claimants, the Pipers and Mr Holmes produced any documents in support of their claim.

On this evidence I am satisfied that Mr and Mrs Piper are the owners of the cross-hatched area and I shall accordingly direct the West Sussex County Council as registration authority to register them as the owners of that area under section 8 (2) of the Act of 1965.

I am not satisfied that any person is the owner of any part of the remaining land and it will therefore remain subject to protection under section 9 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

18th

day of

December

1984

George Hesketh
Commons Commissioner