



COMMONS REGISTRATION ACT 1965

Reference No 20/U/98

In the Matter of Blackstone Edge Common (part),
Ripponden, Calderdale Borough, West Yorkshire

DECISION

This reference relates to the question of the ownership of land containing (according to the Register) 0.485 hectares (1.2 acres) and being a small triangular piece part of or adjoining Blackstone Edge Common, in Ripponden, Calderdale Borough being the land comprised in the "and Section of Register Unit No CL. 231 in the Register of Common Land maintained by the West Yorkshire County Council (formerly Lancashire 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 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 Halifax on 6 April 1976. The hearing was attended by Mr A Wright on whose application the registration was made.

Mr Wright said that he is now and has been since 1941 Steward of the Manor of Rochdale having been appointed by Mr P R Dearden the then Lord, that he represented the present Lord of the Manor, Mr James Peregrine Dearden ("the Claimant"), and on his behalf claimed ownership of the land ("the Unit Land").

He produced (1) a bundle of plans apparently at one time together forming a book (now disintegrated) entitled "These plans of the Commons of the Manor of Rochdale were copied by Thomas Hampson in 1827 from the originals in vellum surveyed by -- (blank) -- between 1770 and 1771 for William Lord Byron"; (2) a map of Lancashire by Teesdale dated 1828; (3) a vesting deed dated 12 June 1926 declaring the lordship of the Manor "with all demesnes wastes...to be vested in Mr P R Dearden; and (4) an assent dated 31 March 1962 by his personal representatives (he died 18 September 1956) in favour of the Claimant.

From the 1926 deed and the 1962 assent, I conclude that the Claimant is now entitled to the Lordship of the Manor. The 1827 book includes a plan which is entitled "Map of that part of the Commons called Black - stone - edge..." and which delineates a large area bounded towards the southeast for a considerable length by a straight line, such boundary being there shown as the same as the boundary between the Counties of Lancaster and York. The Unit Land on its southwest boundary adjoins the present County boundary and on its northwest side adjoins the road (B6138) to Mytholmroyd, a short distance from where such road joins the Rochdale-Halifax road (A58). Mr Wright



identified the A50 road with the Halifax road shown on the 1827 map and contended that the Unit Land although now in West Yorkshire is shown on such map on the west side of the said straight line and as then being in the County of Lancaster, and must therefore have then been (and therefore still is) within the Manor.

There is nothing in the 1926 deed and the 1962 assent referring particularly to the Unit Land, so I am unable to conclude from them that the Claimant is the owner in the absence of some evidence that the Unit Land in 1926 and 1962 appertained or belonged or was reputed to appertain or belong to the Manor within the meaning of these words in section 62 of the Law of Property Act 1925.

In my opinion I cannot treat the 1827 map as establishing that the Unit Land is within the Manor unless the straight line boundary on it can somehow be identified on the ground with some line east of the Unit Land.

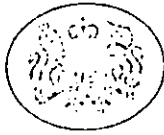
Mr Wright said (in effect) that on the ground there are no distinct boundaries, because the Unit Land and its surroundings are moorland. I conclude therefore that although it is possible to say (as he did) that generally the land on the northwest and southwest is within, and the land on the east is not within the Manor, an inspection would not help to determine the boundary line, because there is no feature on the ground which could sensibly be represented on a map by a straight line.

I cannot from the 1827 map define a straight line boundary from the features marked on the map, because the features are not marked with sufficient precision.

In my opinion the straight line boundary on the 1827 map was intended to mark the County boundary, wherever it might be. The present County boundary as marked on modern maps near the Unit Land is curved and the Unit Land is east of it. Mr Wright pointed out that the 1828 map also shows the County boundary as a straight line, and asked me to infer that the County boundary was somehow lawfully changed after 1828 and before the modern maps were made, leaving the Manor boundary unchanged. In my view in the absence of other evidence, the proper inference is that since 1828 the cartographers have drawn the boundary more carefully.

This view is I think supported by the view Mr Wright himself took when making another registration under the 1965 Act. He produced a map of a very large area of land, nearly all of which was or is in the County of Lancashire or Greater Manchester and which he had caused to be registered as Blackstone Edge Common and which he had caused the Claimant to be the registered owner. The boundary of the areas registered, although it corresponds in a general way with that delineated on the 1827 plan includes south of and near the Unit Land a distinct area east of the said straight line, corresponding to some extent with the present County boundary.

That the Unit Land has been registered separately from this large area appears to have been a matter of chance and it may be that if they had been registered together, the Claimant would have been registered without opposition of all. However this may be, I cannot deduce from this possibility that the Claimant is the owner of both.



For the reasons outlined above, I am unable to reach any conclusion about its ownership, and am therefore not satisfied that the Claimant or any other person (It was not suggested that any other person could be) the owner of the Unit Land, and it will therefore be 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 26th day of May —

1976

a. a. Bruce Fells

Commons Commissioner