



COMMONS REGISTRATION ACT
1965

270/U/37

In the Matter of part of Stansfield Moor,
known as Hoppet Blackshaw

DECISION

This reference relates to the question of the ownership of land described above being the land comprised in the Land Section of Register Unit No. CL.605 in the Register of Common Land maintained by the former West Yorkshire Metropolitan 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 ("the unit land") or claimed to have information as to its ownership.

I held hearings for the purpose of inquiring into the question of the ownership of the land at Wakefield on 9 May 1985 and at Halifax on 3 June 1986.

In 1983 there had been a hearing at Bradford to consider a dispute as to (inter alia) the registration of a right of grazing (Rights Entry No.9) over the unit land. This entry was made on the application of William Grimshaw, as attached to "Hoppit or Quaker Pasture as shown on the supplemental map." This map shows the land so described (the dominant tenement) as adjoining the southern boundary, but not part, of the unit land. It appears from the Decision of the Commons Commissioner who heard the case, that Mr David Green appeared to support the entry: and that Mr Green had stated in evidence that in September 1980 he and his wife had purchased the dominant tenement from Mr Grimshaw. There also appeared at the hearing a solicitor of the North West Water Authority, the statutory successor to the Calder Water Board which had objected to the entry, and he said that the Water Board had acquired the unit land from the Thursby Estate in 1923. The Decision confirmed Mr Green's claimed grazing right with modifications.

At the first hearing in 1985 on the question of ownership of the unit land, Mr Green was the only claimant to appear. He produced a Conveyance dated 3 September 1980 by J D Grimshaw (and another) to Mr Green and his wife. The wording of the parcels in this Conveyance appeared to include the unit land but referred to an attached plan, and this plan bore the legend 'grazing rights on [the unit land].' In October 1980 Mr and Mrs Green were registered under the Land Registration Acts as freeholders of Hoppit Pasture which as shown on the Registry map comprised the dominant tenement but not the unit land.

I adjourned the 1985 hearing to enable Mr Green to ascertain if possible why the plan on the 1980 Conveyance indicated that it was conveying only grazing rights on the unit land, and why, if it was considered that it comprised the unit land itself, the unit land was not included in the registration at the Land Registry. At the same time I considered that having regard to the Water Authority's solicitor's statement at the 1983 hearing, it should be notified of the current hearing.



At the resumed hearing on 3 June 1986, Mr Green was again the only claimant to appear: he was not able to give any explanation on the points raised at the earlier hearing or to add anything to the evidence he had then produced. The Water Authority was not represented at the hearing although it had notified its claim to ownership, but after further correspondence the Authority furnished evidence in support of its claim. Particulars of this evidence were sent to Mr Green and it was hoped that this might lead to a resolution of the question of ownership by agreement between him and the Authority, but no reply has been forthcoming from Mr Green. On 28 May 1987 he was informed that in the absence of any reply the Commissioner would proceed to give his decision on the assumption that Mr Green no longer wished to pursue his claim to ownership.

In the circumstances and on the evidence I am not satisfied that Mr and Mrs Green are the owners of the unit land. As regards the claim by the Authority, by a Conveyance dated 5 October 1925 made between (1) Sir George Thursby (2) Ralph C Assheton, Henry G. Rooth and Walter Southern (3) the Burnley Corporation there was conveyed to the Corporation a large area which included the unit land. The Water Authority is the statutory successor as regards this land to the Burnley Corporation, by virtue of the West Pennine Water Order 1968 (S.I. 1968/512) and the local Authorities (England) (Property etc.) Order 1973 S.I. 1973/1861).

In the result I am satisfied that the Water Authority is the owner of the unit land, and I shall accordingly direct the *Caldendale* Metropolitan *Borough* Council, as registration authority, to register North West Water as the owner 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

21st

day of

July

1987

L. J. M. Smith

Commons Commissioner