



COMMONS REGISTRATION ACT 1965

Reference No.1/U/72

In the Matter of Harrold Green (part),
High Street, Harrold, Bedfordshire.

DECISION

This reference relates to the question of the ownership of land known as Harrold Green (part), High Street, Harrold, being the part of the land comprised in the Land Section of Register Unit No.V.G.3 in the Register of Town or Village Greens maintained by the former Bedfordshire 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 both the Harrold Parish Council and Mr. E.C. Clayson claimed to be the freehold owner of the land in question 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 Bedford on 23rd April 1974.

The Parish Council was represented by Mr. H.B.R. Tusting, a member of the Council, and Mr. Clayson was represented by Mr. T.B. Woolliscroft, solicitor.

The land the subject of this reference is the southern part of the land comprised in the Register Unit. On 15th August 1967 Mr. Clayson applied to be registered as the owner of the whole of the land in the Register Unit, and he was accordingly so registered three days later. This registration was later modified at Mr. Clayson's request, dated 30th October 1970, so as to exclude the southern part, and the registration of the northern part, being undisputed, became final on 16th June 1971.

Meanwhile, the registration in the Land Section, in so far as it related to the southern part, had been the subject of an objection by the late Mr. H.C. Lay. In the grounds of his objection Mr. Lay stated that he had owned the southern part for 45 years. Mr. Lay was Mr. Clayson's father-in-law. Mr. Clayson stated in evidence that he then believed that Mr. Lay was the owner of the southern part and that he only intended to claim the northern part, since he believed that only that part had been properly registered as a town or village green.

Mr. Lay's objection to the registration of the southern part of the land was heard by Mr. Commissioner Baden Fuller, who confirmed the registration, which became final without modification on 3rd May 1973.

In the course of his decision Mr. Commissioner Baden Fuller found that the southern part was part of the same piece of land as the northern part so that the inhabitants of the village had on the southern part the same customary right to indulge in lawful sports or pastimes as they had on the northern part.



-2-

Mr. Clayson's case is that the southern part being, as the learned Commissioner held, part of the same piece of land, he must also be the owner of the southern part.

In my view this line of reasoning is unsound. It is founded upon the registration of Mr. Clayson's ownership of the northern part. It is therefore necessary to consider the effect of this registration. Section 10 of the 1965 Act provides that a final registration of any land as common or as a town or village green, or of any rights of common over any such land, shall be conclusive evidence of the matters registered, as at the date of registration. Since the section makes no mention of the registration of a person as the owner of land, it seems to me that, applying the rule of construction summarized in the maxim expressio unius est exclusio alterius, the registration of a person as the owner of land is not conclusive evidence of his ownership. I must therefore begin my consideration of this matter by an examination of the evidence by which Mr. Clayson's ownership is alleged to be supported.

Mr. Clayson claims as the successor in title of his late father, Mr. E. Clayson, under a conveyance made 20th December 1932 between (1) Walter Molesworth Peacock and Arthur John Merry, as trustees for the creditors of one James Day (2) Edgar Clayson. This was a conveyance of certain specified land together with the lordship of the manor or reputed manor of Harrold. The specified land did not include any of the land comprised in the Register Unit, but Mr. Clayson claims to be the owner of the northern part of the land in question as waste land of the manor.

The only document relating to the title of James Day among Mr. Clayson's deeds is an indenture made 1st May 1918 between (1) Nan Ino, Baroness Lucas (2) James Day, whereby the specified lands were conveyed. This indenture contains no reference to the lordship of the manor. It seems likely that Baroness Lucas was then or had been the lady of the manor, since an earlier Baroness Lucas was stated to be the lady of the manor in the Harrold Enclosure Act of 1798 (37 Geo. III, c. cxiii). There is no evidence as to when, if at all, Nan Ino, Baroness Lucas disposed of the lordship of the manor.

After 1932 Mr. Edgar Clayson, and since his death Mr. E. C. Clayson, maintained the butter-market and the round house or lock-up on the northern part of the land in the Register Unit. Neither Mr. Edgar Clayson nor Mr. E. C. Clayson had anything to do with the southern part, which they both thought belonged to Mr. Lay. I do not regard the maintenance of the butter-market and the round house as a taking of possession of the northern part of the land. I see it rather as a public-spirited action for the benefit of the inhabitants of the village.

On this evidence I am not satisfied that Mr. Clayson has any title to the lordship of the manor. It therefore follows that I am not satisfied that he is the owner of the northern part of the land comprised in the Register Unit. Since Mr. Clayson's claim to the southern part is founded on his claim to the ownership of the northern part, I can only say that I am not satisfied that he is the owner of the southern part. This is in accordance with Mr. Clayson's request dated 30th October 1970, in which he disclaimed ownership of the



-3-

southern part.

Mr. Tusting was not able to adduce any evidence as to the ownership of the southern part of the land. At the hearing before Mr. Commissioner Baden Fuller the late Mr. Lay produced certain deeds which the learned Commissioner did not consider to support his claim to the ownership of the land the subject of this reference. Before me, no evidence was adduced by Mr. Lay's personal representatives.

For these reasons I am not satisfied that any person is the owner of the land, and I shall accordingly direct the Bedfordshire County Council, as registration authority, to register the Harrold Parish Council as the owner of the land under section 8(3) 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 *10th* day of May 1974

A handwritten signature in dark ink, appearing to read 'G. J. G. G.', written over a horizontal line.

Chief Commons Commissioner