



COMMONS REGISTRATION ACT 1965

Reference No 3/U/40

In the Matter of Bois Common in Chesham Bois
and Amersham parishes, Amersham R.D., Buckinghamshire

DECISION

This reference relates to the question of the ownership of land known as Bois Common in the parishes of Chesham and Amersham and in the Rural District of Amersham, being the land comprised in the Land Section of Register Unit No CL.90 in the Register of Common Land maintained by the Buckinghamshire 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 W G Garrett-Pegge 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 High Wycombe on 16 February 1973. The hearing was attended by Mr Wilfred George Garrett-Pegge ("the Claimant") who was represented by Mr N F A Buxton, solicitor of Francis and How Solicitors of Chesham, Bucks.

Mr Buxton in his evidence said:- The land ("the Unit Land") is usually known as "Chesham Bois Common", he has known it since 1952 when his parents (he was born in 1935) moved to a house in Weedon Lane about half a mile west of the north westerly portion of the Unit Land. It is the largest common in or around Amersham, containing (according to the Register) 38.23 acres. The vegetation varies, grass, scrub land, timber trees and so forth; on part there is a cricket pitch.

Mr Buxton produced an indenture dated 10 October 1903 by which Herbrand 11th Duke of Bedford with the concurrence of his trustees conveyed to Mr J W Garrett-Pegge ("the Testator"): "ALL that the Manor or Lordship of Chesham Bois or so much thereof as is situate within the Parish of Chesham Bois in the Counties of Buckingham and Hertford with the rights members and appurtenances thereof". He also produced a counterpart of a lease dated 2 June 1953 by which the Claimant demised to the Chesham Bois Parish Council, "ALL THAT land in the Parish of Chesham Bois being the common land of the Manor of Chesham Bois" from 2 June 1953 for 99 years at the yearly rent of a peppercorn and the Parish Council thereby covenanted (1) to "keep the Common in its present rural condition but to have the right in the interests of good forestry of cutting brushwood and the fellings of saplings deformed and dead trees but shall seek the Landlord's consent to the felling of trees which would measure over four inches quarter girth when felled", and (2) not to "allow any commercial or other buildings, childrens swings, roundabouts etc to be erected".

On my pointing out to Mr Buxton that the documents produced did not show how the land had passed from the Testator to the Claimant, he said that the Unit Land had been so conveyed by his personal representatives. Since the hearing he has sent to the Clerk of the Commons Commissioners an indenture dated 21 June 1920 and made between (1) Mrs E K Garrett-Pegge and Mr F K Andrews (therein stated to be the surviving trustee of the Testator's will; he died on 16 April 1920) (ii) the said Mrs E K Garrett-Pegge (therein stated to be the Testators widow, to have proved his said will with a codicil thereto on 28 May 1920, the other executor having renounced)



(iii) the Claimant and Mr R O Garrett-Pegge (therein stated to be the Testator's two sons and to be entitled under his will to all his real estate in equal shares subject to the prior life interest of his widow) and (iv) the Claimant and (v) Mr E C Francis. By the said indenture the hereditaments comprised in the schedule were conveyed unto the use of the Claimant in fee simple freed and discharged from the trust and powers contained in the said will and codicil. The said schedule was as follows:- "ALL THAT Manor or Lordship of Chesham Bois or so much thereof as is situate within the Parish of Chesham Bois in the Counties of Buckingham and Hertford and also all the quit rents payable to or in respect of the said Manor".

Mr Buxton said as far as he knew the Unit Land was the only land in the Manor which was in other respects defunct. I think I can from the name by which the Unit Land is commonly known "Chesham Bois Common" (it is so marked on the Register map) and the acceptance of the lease by the Parish Council properly infer that the Unit Land is a member or appurtenance of the Manor in the meaning of the 1903 Indenture and a waste or common to the manor appertaining or reputed to appertain within section 6 of the Conveyancing Act 1881 and was therefore effectively conveyed by the 1903 and 1920 indentures.

On the evidence outlined above I am satisfied that the Claimant is the owner of the Unit Land and I shall accordingly direct the Buckingham County Council as registration authority to register Mr Wilfred George Garrett-Pegge of Chesham Bois Manor Chesham, Bucks, as the owner 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 23rd day of March 1973

a. a. Baden Fuller

Commons Commissioner