



COMMONS REGISTRATION ACT 1965

Reference Nos 203/U/124
203/U/126
203/U/150

In the Matter of ponds (1) at Walter's Ash
(2) by Cockpit Hole, Great Kingshill and
(3) near Widmer End Farm, Cryers Hill Road,
Widmer End, all in Hughenden, Wycombe District,
Buckinghamshire

DECISION

These references relate to the question of the ownership of lands being ponds (1) at Walter's Ash, (2) by Cockpit Hole, Great Kingshill and (3) near Widmer End Farm, Cryers Hill Road, Widmer End, all in Hughenden, Wycombe District being the land comprised in the Land Section of Register Unit (1) No. CL 220, (2) No. CL 225 and (3) No. CL 303 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 no person claimed to be the freehold owner of the lands in question and no person claimed to have information as to their ownership.

I held hearings for the purpose of inquiring into the question of the ownership of the lands at Aylesbury on 25 January 1979. At the hearing Hughenden Parish Council were represented by Mr E B Smith their clerk.

From the County Archives were produced: (1) the Hughenden Inclosure Award dated 4 August 1862 and (2) the Hitchenden (Hughenden) Burch Inclosure Award dated 23 August 1855, together with the maps referred to therein (one separate and the other attached). By both these Awards certain lands therein specified were allotted "as public ponds or watering places", and each allotment provided that the pond should be from time to time properly cleansed and repaired by the persons therein mentioned. The owners or proprietors of some land adjoining).

Mr Smith, who has been the Clerk of the Council for nearly 11 years, in the course of his evidence about the CL 220 Land (Walter's Ash) said (in effect):- He identified it with one of the allotments made by the 1862 Award. The Parish Council have always assumed ownership of this pond, in that they have maintained it and protected it. By them it was fenced off from the road and on 2 of its other sides (they paid for this about a year or 18 months ago). Before then there had been a fence but it had got derelict. The Parish Council cleaned it out; this is not often because it is not necessary; only once during his year of office and on this occasion it was done by voluntary labour of the Bucks and Berks Border Conservation Group, the Parish Council paying the expenses (a skip to remove the refuse, mostly the weeds which had been removed). He understood from members that similar maintenance had been done by the Parish Council before he took office. The children from the primary school nearby used the land for nature study.



Mr Smith identified the CL 303 and the CL 225 Lands with 2 of the allotments made by the 1855 Award. He said he could not on behalf of the Parish Council claim ownership of the CL 303 Land (Widmer End). As regards the CL 225 Land (Cockpit Hole), he could not remember anything having been done by the Parish Council there (this may be because it needs little attention, being deep and continually receiving a discharge of ~~garbage~~ water; he could only say that about 4 or 5 years ago the Parish Council gave permission to a nearby householder to clean it out as necessary.

On 5 February I inspected the ponds.

Neither of the Awards contain any express indication as to who shall be the owner of the land thereby allotted as public ponds or watering places; presumably those concerned thought that ownership did not matter. I cannot I think in the absence of any evidence as to the circumstances in which the Awards were made, treat them as *indicating that the ponds were to be in the ownership of the Parish in any now relevant sense.*

As regards the CL 220 Land (Walter's Ash):- The fencing described by Mr Smith is substantial; although it does not exclude the public (there is a small unlocked gate from the footpath by the public road), the effect is to give the land the appearance of a holding distinct from the surrounding land occupied with dwellinghouses and from the adjoining highway (a road with a good deal of motor traffic). I conclude that the Parish Council are in possession. Because the land was in 1862 allotted as a public pond, which could appropriately be in the ownership of the Parish, I find that it is practically certain that the possession of the Parish Council will not be disturbed. Possession in such circumstances is equivalent to ownership, and I am therefore satisfied that the Parish Council are the owners of this land, and I shall accordingly direct Buckinghamshire County Council as registration authority to register Hughenden Parish Council as the owners of the CL 220 Land under section 8(2) of the Act of 1965.

As regards the CL 303 Land (Widmer End):- The pond is a short distance from the road (through a gate) and is apparently part of a much larger area of cultivated farmland. It appears to have none of the characteristics of the parish land within any of the possible meaning of these words. In the absence of any evidence, I am not satisfied that any person is the owner, and it will therefore remain subject to protection under section 9 of the Act of 1965.

As regards the CL 225 Land (Cockpit Hole):- The north and southeast sides of the land, are for the most part very substantial concrete walls retaining Stag Lane and Cockpit Road (both highways carrying a good deal of motor traffic); there is easy access to the pond on the northeast end of the land (near where the lane and road meet. Water from the road appears to drain into the Pond. It may be that this land, as the name suggests, was at one time a cockpit, but I have no evidence about this. The permission mentioned by Mr Smith cannot in my opinion be properly regarded as an act of possession by the Parish Council. In my opinion I have no evidence of the ownership of the Parish Council or anyone else. So I am not satisfied that any person is the owner of this 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 2nd ~~th~~ day of March 1979

a. a. Baden Fuller

Commons Commissioner