

COMMONS REGISTRATION ACT 1965

Reference No 3/D/9

In the Matter of The Green at Northall, Edlesborough, Aylesbury Vale District, Buckinghamshire

DECISION

This dispute relates to the registration at Entry No 1 in the Land Section of Register Unit No. VG. 46 in the Register of Town or Village Greens maintained by the Buckinghamshire County Council and is occasioned by Objection No 71 made by Mr Eric Pratt and noted in the Register on 20 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Aylesbury on 23 June 1976. At the hearing Mr Pratt was represented by Mr K H Miller solicitor of Markbys, Solicitors of London EC2, and Aylesbury Vale District Council were represented by Mr S D Wadsworth solicitor of their Legal Department.

The registration was made on the application of Edlesborough Parish Council. There are no Entries either in the Rights Section or the Ownership Section. The Objection is to the Entry in the Land Section, and the grounds are:
"I That the land was not common land at the date of registration. 2 That the right does not exist at all".

Fir Miller said (in effect):- The grounds of objection are not aptly phrased because Mr Pratt who owns the land only discovered the registration shortly before the time for making any objection to it, expired. The Dagnall, Northall and Edlesborough Inclosure Award dated 14 June 1865 contains an allotment in these words:-

AND I DECLARE that I...do hereby set out allot and award unto the Right Honourable John William Spencer Brownlow Egerton Cust Earl Brownlow and who has consented to receive the same as part of his Allotment to be held by him and his heirs and assigns subject to the obligation of preserving the surface thereof in good condition and of permitting the same to be used as a place for Exercise and Recreation for the Inhabitants of the said parish and neighbourhood ALL THAT Allotment piece or parcel of Land numbered 34 on the said Map containing four acres six perches situate on Northall Green..."

The land ("the Unit Land") comprised in this Register Unit is the same as or is included in the land so allotted. Mr Pratt claimed ownership of it under a conveyance dated 25 March 1924 made of this and other land to his father. Mr John Pratt and under an assent dated 2 September 1954 made by his personal representative in his (Mr E Pratt's) favour. He conceded that the land is within the definition of a town or village green in section 22 of the 1965 Act, but contended that I could at this hearing by allowing an amendment of the grounds of objection or otherwise direct that Mr Pratt be registered (in the Ownership Section) as owner.



Mr Pratt in person explained that the Unit Land is west of and fronts on the main road A416 from Leighton Buzzard to Hemel Hempsteed, that he owns Home Farm the buildings of which are opposite (on the other side of the road) and that the Unit Land is surrounded (or almost surrounded) by the lands of his Farm.

The effect of the 1965 Act, stating it shortly and so far as now relevant, is that section 6 requires a Commons Commissioner to hold enquiries into disputes occasioned by Objections and section 8 requires a Commons Commissioner to hold enquiries into the ownership of land of which nobody has under section 4 been registered as owner. There is nothing in the Act enabling a Commons Commissioner to give a decision under section 8 on a reference made to him under section 6, and under the regulations the procedure: preliminary to and at hearings of references made under the two sections are different. In my opinion a Commissioner, at any rate in the absence of exceptional circumstances (it was not suggested that in this case there are any) cannot give an ownership direction under a reference made under section 6 such as I am now considering. Accordingly it being conceded that the Objection, as an objection to the Entry in the Land Section, cannot succeed. I refuse to hear any evidence as to ownership or to give any decision about it. My refusal will not deprive Mr Pratt of an opportunity of claiming ownership at the enquiry which must if I confirm the registration in the Land Section necessarily follow in due course under section 8, although I regret that I cannot see my way to saving him the trouble and expense of then having to produce evidence of ownership.

For the reasons set out above, I confirm the registration in the Land Section without any modification.

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 30th day of June

1976

Commons Commissioner

a. a Sadan Fellin