



In the Matter of Snelson Common, Snelson,
Cheshire

DECISION

This reference relates to the question of the ownership of land known as Snelson Common, Snelson, being the land comprised in the Land Section of Register Unit No. CL.50 in the Register of Common Land maintained by the Cheshire County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notices of this reference the Trustees of R F Silcock's Myerscough Trust claimed to be the freehold owners of part 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 Chester on 12 May 1983. At the hearing the Trustees' Department of National Westminster Bank P L C . was represented by Mr J O Cretney, Solicitor, and the Snelson Parish Council by Mr P M Cawson, Solicitor.

By a vesting deed made 9 September 1926 between (1) Robert Henry Greville Tatton, Edward Wilbraham Dixon, and Gilbert Ireland Blackburne (2) Sir John Dixon, but it was declared that the property therein described was vested in Sir John Dixon in fee simple. The premises included The Common Wood (O.S.No. 36), Snelson, having an area of 4.117 ac. The land so described was identified as being the southern part of the land the subject of the reference by the plan annexed to a conveyance made 20 January 1953 between (1) Sir John Dixon (2) R H G Tatton and G I I Blackburne (3) District Bank Nominees Ltd. This land was then conveyed to District Bank Ltd by a conveyance made 10 November 1964 between (1) Richard Poole Silcock (2) District Bank Nominees Ltd (3) District Bank Ltd. Finally, the land was vested in National Westminster Bank Ltd on 1 January 1970 by section 4 (1) of National Westminster Bank Act 1969 (1969, c. xxii) and the National Westminster Bank Act 1969 (Appointed Day) Order 1969. National Westminster Bank Ltd became National Westminster Bank P.L.C. on 1 February 1982.

Such is the paper title. The evidence regarding possession starts in 1939, when the former Macclesfield Rural District Council agreed with Sir John Dixon for the use of the Southern part of O.S.No. 36. For this use the Council paid £2 a year. The tip was fenced in 1954, but the fence fell into a state of disrepair after the tip was closed in 1964. The tipping agreement was terminated in 1967. When the tip was closed, the Trustees' agents erected a notice provided by the Rural District Council stating that the land was no longer a public tip. In 1980, after the tip had had time to settle, the Trustees' agents planted trees on it and fenced it and told the farmer who had been storing manure on it to remove the manure. The remainder of O S. No. 36 was used by Sir John Dixon for shooting.

Mr Cawson accepted that the title had been established by the 1953 Conveyance, but claimed that the Parish Council had obtained a possessory title since the Rural District Council ceased paying rent for the tip in 1967 and before the trees were planted and the fence erected in 1980.



Mr Cawson said that the Parish Council assumed responsibility when the Trustees abandoned responsibility. This, however, is not the test to be applied. "Responsibility" has no legal significance. What has to be sought is evidence of adverse possession. The only evidence relating to anything done on the land other than by the Rural District Council or the Trustees' agents was that there had been some hedge cutting and clearing of ditches. Some of this work was done by Mr Thomas Wilfred Massey, who lives on an adjoining farm, but he said that it was voluntary work. Mr Massey has been a member of the Parish Council for 24 years and is now its Chairman. I find myself unable to say that Mr Massey's membership of the Parish Council is sufficient to constitute the work which he did or directed a taking possession of the land by the Parish Council.

Mr Cawson said that the other side conceded that the Parish Council was in possession of the northern part of the land. This, however, is not sufficient. The matter for determination is not which of two parties is the owner, but whether there is any evidence that anybody is the owner. There was no evidence that the Parish Council had ever been in possession of the northern part of the land, and the lack of evidence cannot be made good by any concession by the owners of the other part of the land.

On this evidence I am satisfied that National Westminster Bank P.L.C. is the owner of the southern part of the land, and I shall accordingly direct the Cheshire County Council, as registration authority, to register that company as the owner of that part of the land under section 8 (2) of the Act of 1965.

I am not satisfied on the evidence that any person is the owner of the northern part of the land, which 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

20th

day of

May

1983

Chief Commons Commissioner