



In the Matter of a piece of land being part
of that known as Drove Road, Towednack and
Zennor

SUPPLEMENTARY DECISION

This decision is supplemental to my decision on this matter dated 26 January 1983.

On 22 March 1983 a request was received from Solicitors acting for Mr P Heron one of the claimants to ownership of part of the Register Unit requesting that the hearing be reopened on the following grounds:-

- (a) No opportunity had been given to their client to know what was the nature of the rival claims which were advanced against his claim.
- (b) Copies of documents submitted by other parties were not made available to their client.
- (c) Their client appeared in person but found that no explanation was given of the procedure which would be followed.
- (d) It was not made plain to their client that he could ask to give evidence upon oath and for the evidence of other witnesses to be given on oath.

I held a hearing at Camborne on 1 November 1983 and 12 January 1984 for the purpose of hearing Mr Heron's application and, if necessary, reopening the inquiry as to ownership.

Mr N Dowding of Counsel, instructed by Messrs Russell Jones and Co, Solicitors of Welwyn Garden City, appeared for Mr Heron. Mr P S Wood of Messrs J R Lloyd and Co, Solicitors, of Hayle appeared for Mr and Mrs Noy and Mrs A Symons appeared on behalf of herself and her three sisters.

Mr Dowding said that the Divisional Court would quash the decision of a tribunal if it appeared that the case of the person attacking the tribunal's decision had not been effectively put to the tribunal even if this were due to the acts or lack of action by that person. For this proposition he relied on the Chapter on Natural Justice in Judicial Control of Administrative Action by the late S A de Smith.

Mr Wood submitted that on the facts of the present case, Mr Heron was not entitled to have the hearing reopened.

Having considered these submissions I decided that Mr Heron had made out his case and I ought to reopen this hearing rather than put the parties to the expense of applying to the Divisional Court.

After discussions between the parties it was agreed that my decision with regard to the register unit other than the area between the figures 726 and 750 should be varied as follows.



-2-

Of the part awarded to Mr Symons and her three sisters, they should be declared owners of the land lying to the north of the northern edge of the footpath and Mr Heron the owner of the land lying south of the southern edged of the footpath. Of the land of which Mr Noy was declared owner he should be declared owner of the area hatched blue on the official copy of the Register Unit which will be sent with a copy of this decision to the Registration Authority and Mr Heron shall be declared owner of the remainder.

I shall direct the Cornwall County Council to register these ownerships 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 19th day of March 1984

Lang Harkness

Commons Commissioner