



COMMONS REGISTRATION ACT 1965

Reference No. 206/R/26

COMMON LAND (RECTIFICATION OF REGISTERS) ACT 1989

In the Matter of Land at 2 Menherion, part of land called Yellow Wort

DECISION

This reference relates to an objection under the Common Land (Rectification of Registers) Act 1989 to the registration of part of the land registered in Entry No.1 in the Land Section of Register Unit No. CL.121 in the Register of Common Land maintained by the Cornwall County Council.

It is occasioned by Objection No. 21 made by Mr and Mrs P Penlerick and referred to a Commons Commissioner on 23 October 1992.

I held a hearing to inquire into this objection at Camborne on 20 January 1994 and viewed the land shortly afterwards.

At the hearing Mr & Mrs Penlerick, the objectors, were represented by Mr Fox of Reginald Rogers & Son, Solicitors, Helston, and Mr Wilson represented the Cornwall County Council the registration authority.

Evidence was given by Mr and Mrs Penlerick, by Mr N J Pryor the owner of Menherion Farm which adjoins the objection land, and by Mr R A Pasco.

The objection land falls into two parts. The first part is a piece of land of which Mr and Mrs Penlerick are registered at H M Land Registry as proprietors with possessory title under title No. P181154. This land was, in the 1930s, enclosed and fenced by the then tenant of 2 Menherion, a Mr Jenkins, who kept a pig and some chickens on the land: from 1939 onwards, vegetables were grown on the land by Mr Jenkins, who also in about 1945 erected a garage thereon. Mr Jenkins continued to use the land for those purposes until about 1950, when a Mr & Mrs Beadell took over and continued to use the land as garden, and to use the garage Mr Jenkins had erected. Mr Beadell (Mrs Beadell having died) sold the land in 1954 to Mr & Mrs Penlerick, who have continued to use the land for vegetables and partly as an orchard. They demolished and replaced the garage erected by Mr Jenkins, and they have also erected a greenhouse and grow tomatoes in it.

In these circumstances I consider the requirements of section 1(2) of the 1989 Act are satisfied in the case of the part of the objection land which is registered under Title P181154.

The other part of the objection land consists of a strip to the northeast of the first part of the land, extending from the road frontage to the stream which borders the land on the south. The history of this strip is, that in about 1970 Mr Pryor decided to improve the land between the road and the meadow called "Yellow Wort", which was then waste ground, and put up a fence in a line with the eastern end of the row of cottages called Menherion, thus leaving a strip about 12-15' wide between Mr & Mrs Penlerick's above mentioned enclosure and the land he intended to improve. This area was occupied and cultivated by Mr & Mrs Penlerick, and they permitted a neighbour to put another garage upon it.



Between 1970 and the present day, therefore, this land has been occupied by Mr & Mrs Penlerick as garden ancillary to 2 Menherion, but the evidence as to its use prior to 1970 is scanty and adds up only to this, that between 1954 and 1970 Mr Penlerick threw garden waste onto the land and occasionally had a bonfire there to dispose of it. There is no evidence at all of use of this land for any "garden" purpose prior to 1954. In these circumstances I am not satisfied that the requirements of Section 1(2) of the 1989 Act are satisfied in the case of the land last referred to.

I am required by regulation 22(1) of the Common Land (Rectification of Registers) Regulations 1990 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

31<sup>st</sup>

day of

January

1994

A handwritten signature in black ink, appearing to read "John Ginter", written in a cursive style.

Commons Commissioner