



In the Matter of Pieces of land known as
Boswednack Common, Zennor

DECISION

This reference relates to the question of the ownership of land above mentioned being the land comprised in the Land Section of Register Unit No. CL.315 in the Register of Common Land maintained by the Cornwall 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 two persons claimed to be the freehold owners of parts 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 Camborne on 3 October 1984.

The following were present at the hearing. Mr Willilams for the Registration Authority, Mr J M Roberts and Mr G D Osborne appeared in person and Mr C Nicholls, Solicitor of Bodmin appeared for the National Trust as a prospective purchaser of land from Mr Osborne.

This register unit is made up of six pieces of land three lying to the north and three to the south of Boswednack Village.

I was supplied by the Registration Authority with a copy of a decision which had been prepared to show the effect of a decision of another Commons Commissioner who had dealt with a dispute (Ref. 206/D/900). That decision became final on 30 October 1981 and the map showed those parts of the land provisionally registered which had been deleted as a result of the decision.

On that map the pieces of land north of Boswednack were described as (i) North-west piece and (ii) two small areas lying to the east were together called North-Eastern piece. Of the land to the South of Boswednack two small pieces are shown as 'Small Moorland pieces' and the remaining area part of Gear Common is described as 'Large Moorland Piece'.

Mr Roberts said in evidence that he claimed by survivorship to be the sole owner of O S No. 679 6.689 acres which he and his late wife had purchased on 15 November 1965 except for a portion which had been sold by then to Mrs Winifred Hislam on 17 October 1968.

Mr Gordon Douglas Osborne said that he was aged 66 and had lived at Boswednack Farm all his life. His parents had lived there before he was born. Before 1939 his father had let Ponion Green, the southern part of the area described as North-East Piece to a member of the County Council for grinding rock. There were no fences but there were boundary stones. The northern part of North-East Piece had been used as a dump. His father died in 1952 and his mother died two years later. In 1956 he entered into a Deed of Family Arrangement



with his sister and two brothers whereby he acquired their interests in Boswednack Farm for cash. He claimed ownership of the more northerly of the small moorland pieces but disclaimed any interest in Gear Common.

The Title deeds produced by Mr Roberts describe the land which he and his wife purchased by reference to the Ordnance Survey Map 1908 edition. The land which Mr Roberts described as O S 679 - 6.689 acres is not identifiable with any of the parcels mentioned in those title deeds.

Osborne Mr Noble or the Solicitor acting for the National Trust produced a map which purported to show the limits of Boswednack Farm and the locations of Register Units CL.315 and 703. On this map there is a field of 6.689 acres numbered 679, but there is no indication as to the date when the map was prepared. This field is however clearly shown on the plan annexed to the Conveyance to Mrs Hislam referred to by Mr Roberts as part of the land conveyed to her.

With regard to Mr Osborne's claims there is again the difficulty of matching his titled deeds with identifiable land.

As to the land alleged to have been let to a County Councillor before 1939 there was no evidence of any rent having been paid or as to how long the alleged tenancy lasted.

On this evidence I am satisfied that Mrs Winifred Hislam is the owner of that part of the land described on the said map as North-west Piece and I shall accordingly direct the Cornwall County Council as registration authority to register her as the owner of that part under Section 8 (2) of the Act of 1965. I am not however satisfied that any person is the owner of any part of the remainder of the 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

19th

day of

February

1985

George Herbert

Commons Commissioner