



Reference No. 262/U/16

COMMONS REGISTRATION ACT 1965

In the Matter of Skirwith Village Green,
Culgaith, Eden District, Cumbria

DECISION

This reference relates to the question of the ownership of land known as Skirwith Village Green, Culgaith, Eden District being the land comprised in the Land Section of Register Unit No. VG 71 in the Register of Town or Village Greens maintained by the Cumbria (formerly Cumberland) 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 Mr A E Harrison claimed (letter of 27 April 1979) ownership of Beck Cottage. No other person claimed to be the freehold owner of the land in question or 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 Penrith on 25 April 1979. At the hearing Culgaith Parish Council were represented by Mr D Youngman their chairman and Mr W A Whitfield their clerk; and Mr Harrison attended in person.

The land in this Register Unit is in the Land Section described as: "A piece of land known as Skirwith Village Green ... marked with a green verge line inside the boundaries on ... the register map". Verbally this description falls into two parts which I shall, as there is a question whether they describe the same land, call "the word description" and "the map description". At the hearing the only map I had of this Register Unit (6" = 1 mile) showed coloured the Register Unit as a strip about 350 yards long from east to west and for the greater part (the west) about 30 yards wide and for the remainder (the east) narrower; Skirwith Beck flows along and for the most part near the middle of the strip throughout its whole length. It is not clear from this map whether the Register Unit includes the comparatively very small pieces of grass land (uncoloured on it) situate on the west side of the road which runs through the Village from north to south.

Mr Harrison identified the land he claimed by producing an extract from the OS map (1/2500). To give precision to his claim as I understood it, I define "the Beck Cottage Area" as meaning the rectangular area situated north-north-east of St John's Church and delineated on such OS map and thereon shown as about 2/3rds (the east and west parts) built over and was about 1/3rd (the middle part) open, and as having (as I scale the map) a length from east to west of about 42 feet and from north to south of about 25 ft. Clearly the map description includes the Beck Cottage Area.

Mr Harrison produced: (1) a copy of a deed dated 31 March 1976 by which Culgaith Parish Council granted to him as owner of Beck Cottage coloured red on



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the plan attached (such plan showed the Beck Cottage Area) a right of way; and (2) a copy of a conveyance dated 8 March 1879 by the Vicar and Churchwardens of Skirwith as trustees of the Skirwith School conveyed to Mr M Robson a parcel of land with the school house erected thereon and containing four perches. Mr Harrison said that (in effect):- He bought the Cottage in 1963. The originals of the copy deeds he produced were with his solicitor as part of the documents of title. First he used the cottage as a holiday cottage but he had lived in it since 1973.

No evidence was offered on behalf of the Parish Council, and I understood from Mr Whitfield that Mr Harrison's claim was not disputed.

Two days after the hearing I walked the length of the registered land and, particularly the footpath by the Beck Cottage Area. If as appears likely there has been on this Area a dwellinghouse for at least 100 years it cannot be within the word description. Where land is described in a document by two irreconcilable descriptions, and the document must be given some meaning, conflict is resolvable in accordance with the rules of law conveniently summarised by the maxim "falsa demonstratio non nocet"; I have on this reference no jurisdiction to determine whether in relation to the Beck Cottage Area the word description or the map description should be regarded as decisive; nevertheless I consider I ought to give a decision which could take effect if the Beck Cottage Area can properly be regarded as within this registration.

Since the hearing I have received from Mr Harrison's solicitors a copy of the conveyance dated 1 June 1961 by which Miss Alice Robinson conveyed to Mr Harrison and his wife May Harrison a plot of land with the cottage erected thereon recently in the occupation of Ann Little Elizabeth Ellwood deceased known as Brook House and also received a letter dated 27 April 1979 from Mr Harrison which he pointed out that while he referred to the name of the property as Beck Cottage, he had forgotten that the deed of conveyance gives the name of Brook House which they had thought too pretentious and had therefore "Cumbrianised".

On the evidence summarised above I am satisfied that Mr and Mrs Harrison are the owners of the Beck Cottage Area and I shall accordingly direct Cumbria County Council as registration authority pursuant to section 8(2) of the Act of 1965 to register Mr Alan Edward Harrison and his wife Mrs May Harrison both of Beck Cottage, Skirwith as the owners of so much (if any) of the Beck Cottage Area as defined in this decision as is comprised in the Land Section of this Register Unit. And in the absence of any evidence I am not satisfied that any person is the owner of the remainder of the land comprised in this register unit and I shall accordingly direct the Cumbria County Council as registration authority pursuant to section 8(3) of the Act of 1965 registered at Culgaith Parish Council as the owner.

As to the possible conflict between the word description and the map description in the Land Section, I draw attention to paragraph 35 of the Commons Registration (General) Regulations 1966 which empowers the registration authority to correct the errors and omissions in a register therein specified and suggest for their consideration that it may be that after consulting as they make think fit the persons concerned they could properly correct the Register map so that it corresponded



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with the word description. I also suggest that they might consider not only the Beck Cottage Area but also any other buildings now coming within the map description (during my inspection it seemed to me that the Sun Inn might be such).

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 21st — day of June — 1979

a. a. Baden Fuller

Commons Commissioner