



COMMONS REGISTRATION ACT 1965

Reference No. 3/D/9

In the Matter of land on the south side of Allen Lane near Blakelow Barn (shown on Ashover Inclosure Award map as No. 353), Ashover, Chesterfield R.D. Derbyshire

DECISION

This dispute relates to the registrations at Entries Nos 1 and 2 in the Ownership Section of Register Unit No. CL.17 in the Register of Common Land maintained by the Derbyshire County Council and is occasioned by these two Entries conflicting with each other.

I held a hearing for the purpose of inquiring into the dispute at Chesterfield on 17 October 1973. At the hearing was Mr. Oliver Bradley and Mr. Richard Bradley were represented by Mr. A. J. G. Glossop solicitor of W. & A. Glossop Solicitors of Chesterfield and Ashover Parish Council were represented by Mr. B. S. Shemwell solicitor of Jones Middleton Solicitors of Chesterfield.

At Entry No. 1 Ashover Parish Council are provisionally registered as owners of the whole of the land ("the Unit Land") comprised in this Register Unit. At Entry No. 2 "Oliver and Michael Bradley" are provisionally registered as owners of the whole of the Unit Land. It was agreed that the name "Michael" in this entry should be "Richard", in accordance with the application dated 20 March 1966 pursuant to which this Entry was made.

Mr. Shemwell said that this land was under the Ashover Inclosure Award allotted for getting stone etc. and that he took it that after the Award the land remained or became vested in the Lord of the Manor; so he on behalf of the Parish Council accepted that they were not properly registerable as owners.

Mr. Oliver Bradley in the course of his evidence produced (i) a conveyance dated 3 August 1966 of Red House Farm at Bleaklow by Mr. S. Smith to himself (Mr. O. Bradley) and Mr. Michael Bradley; and (ii) a statutory declaration made on 13 June 1966 by Mr. S. Smith. The Register map shows that Unit Land as O.S. No. 2849, area 1.133 acres. The 1966 conveyance included in the 22 acres 16 perches thereby conveyed with the farmhouse, this O.S. No. 2849; it was described in the Schedule as "Plantation and rough". In the 1966 declaration Mr. S. Smith stated (in effect) that his father had lived at Red House Farm from 25 October 1932 until his death on 1 March 1965 and that his father had enjoyed undisturbed possession of the Field O.S. No. 2849 from 1932 until his death.

Mr. O. Bradley said that he and Mr. R. Bradley had been in possession of the Unit Land since they purchased in 1966. One half is all humps and hollows with some trees; the other half is small hillocks with some grazing; on which he puts cows for about two weeks every year. The Unit Land has a water hole which, they use for



cows, being the only water supply (apart from pumped well water used domestically) on the Farm.

Mr. Glossop showed me the abstract of title examined by his firm on the 1966 purchase; it showed no documentary title to O.S. No. 2849, although this land was included in the auction particulars; hence his firm advised the obtaining of the statutory declaration. He produced a conveyance dated 25 October 1932 by which Mr. G. T. Wragg conveyed to Mr. S. Smith (Senior) the same land as was comprised in the 1961 conveyance except O.S. 2849 on the plan called "Parish Quarry". Mr. Glossop also showed me a copy plan included in the abstract as annexed to an indenture dated 1 December 1894, being a conveyance by Mr. J. B. Gregory to Mr. T. Wragg; the Parish Quarry marked on this, although more or less in the same place as O.S. No. 2851 was differently outlined.

On the above evidence I conclude that Messrs O. and M. Bradley have by the possession of themselves and of Mr. Smith (Senior) acquired a possessory title to the Unit Land, subject to such rights as may be protected by the registration in the Land Section and the Rights Section of this Register Unit.

For the above reasons I refuse to confirm the said Entry No. 1 and confirm the said Entry No. 2 with the modifications that in column 3 headed "Name and Address of persons registered as owner", the name "Richard" shall be substituted for the name "Michael".

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 9th day of November 1973.
a. a. Baden Fuller

Commons Commissioners