



COMMONS REGISTRATION ACT 1965

Reference No.9/U/41

In the Matter of Lympstone Common,  
Lympstone, Devon.

DECISION

This reference relates to the question of the ownership of land known as Lympstone Common, Lympstone, being the land comprised in the Land Section of Register Unit No.CL.39 in the Register of Common Land maintained by the former Devon 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 Nutwell Devon Estates Ltd claimed to be the freehold owner 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 Exeter on 14th May 1974.

At the hearing Nutwell Devon Estates Ltd was represented by Mr.H. Williams, solicitor. The East Devon District Council was represented by Mr.D. Atkins, solicitor, and the Lympstone Parish Council by Mr.W. Bailey, its Chairman. Neither Mr.Atkins nor Mr.Bailey contested the claim made by Nutwell Devon Estates Ltd.

On 24th May 1815 the bounds of the Manor of Lympstone were perambulated and viewed by John Hallett, Steward of the Manor, Thomas Trayton Fuller Elliott Drake, Lord of the Manor, together with a number of tenants of the Manor and others. This exercise was repeated on 19th June 1852 by George Giles, Steward of the Manor ~~to~~ Sir Thomas Trayton Fuller Elliott Drake, baronet, Lord of the Manor. The bounds of the Manor were defined by reference to 37 landmarks. On a recent inspection Mr. ~~L.S. Sutton~~, chartered surveyor, was able to identify 24 of these points, and plotted the identifiable points on an Ordnance Survey map. On this evidence I am satisfied that Lympstone Common was within the Manor in 1815 and 1852 and therefore, in the absence of evidence to the contrary, the soil of the Common must be taken to have been in the ownership of the Lord of the Manor. There is no evidence that it has since been separated from the manor.

On 20th April 1639 the Manor of Lympstone was conveyed to William Putt, son and heir apparent of Nicholas Putt, by an indenture made between (1) Sir Thomas Prideaux, kt (2) Denys Prideaux, his son and heir apparent (3) William Putt. The manor descended in the Putt family until by a lease and release made 23rd and 24th September 1802 between (1) Sir John Trevelyan, baronet, heir of Sir John Trevelyan, baronet, the last surviving trustee of the will, dated 10th April 1721, of Sir Thomas Putt, baronet (2) Reymundo Putt (3) John Baring and Richard Rous (4) Charles Fanshawe and William Bray the manor, together with all commons, wastes and waste lands, was conveyed to the parties of the fourth part. The purchase price was part of the money obtained by the



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sale of timber on certain estates settled under the will and codicil of Sir Francis Henry Drake, baronet, which by the Act 37 Geo.III c.xcix had to be vested in the purchase of other estates to be settled to the same uses.

The estates settled to the uses of Sir Francis Henry Drake's will were comprised in the marriage settlement dated 5th August 1861 of Francis George Augustus Fuller (afterwards Sir Francis G.A. Fuller-Elliott-Drake) and a further settlement dated 24th June 1871. Sir Francis G.A. Fuller-Elliott-Drake had an only daughter and heiress, Elizabeth Beatrice, wife of the third Baron Seaton. By a vesting deed dated 21st May 1926 the settled estate was vested in Lady Seaton by the trustees of the 1871 settlement and of her father's will. The parcels of this vesting deed included "The Manor of Lympstone. Lympstone Common Manorial rights Part No.955" and the plan therein referred to showed that "Part No.955" was the land the subject of this reference. By a vesting assent dated 8th February 1940 the personal representative of Lady Seaton assented to the vesting in Richard Owen Tapps Gervis Meyrick of the Nutwell Court Estate in the parishes of Woodbury and Lympstone. The parcels of this vesting assent included "The Manors of Nutwell and Lympstone ..... including in particular the manorial rights ..... over Lympstone Common Part No.955".

The Nutwell Court Estate was sold by auction on 18th July 1941 and was conveyed by a conveyance made 10th December 1941 between (1) Richard Owen Tapps Gervis Meyrick (2) Sir George Llewelyn Tapps Gervis Meyrick, Matthew Hackforth Jones and Guy Wolfe Gotto (3) The Newcombe Estates Company Ltd (4) Alverstoake Properties Ltd. By a conveyance made 7th December 1961 made between (1) Alverstoake Properties Ltd (2) Nutwell Devon Estates Ltd Nutwell Court and other property together with all such manorial rights of the manors of Nutwell and Lympstone appurtenant to the hereditaments conveyed as Alverstoake Properties Ltd had power to convey were conveyed to Nutwell Devon Estates Ltd.

In my view the manorial rights of the manor of Lympstone included the soil of Lympstone Common, and Alverstoake Properties Ltd had power to convey it. On 21st February 1961 Alverstoake Properties Ltd had granted to the Admiralty a licence to use Lympstone Common for 21 years at an annual payment of £25. Since the conveyance of 7th December 1961 Nutwell Devon Estates Ltd has received this annual payment.

For these reasons I am satisfied that Nutwell Devon Estates Ltd is the owner of the land, and I shall accordingly direct the Devon County Council, as registration authority, to register that Company as the owner of the land 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 **5<sup>th</sup>** day of **June** 1974

  
Chief Commons Commissioner