



COMMONS REGISTRATION ACT 1965

Reference no. 209/U/115

In the Matter of parts of Crownhill Down and
Headon Down, Sparkwell

DECISION

This reference relates to the question of the ownership of part of the land comprised in the Land Section of Register Unit No. CL.189 in the Register of Common Land maintained by the 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 Watts Blake Bearne and Co PLC, the Trustees of the Hemerdon Estate and ECC International Ltd claimed to be the freehold owners of parts of the land in question.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Plymouth on 27 June 1989.

At the hearing Mr E Ash (director) represented Watts Blake Bearne and Co, Mr R T Blaikie, solicitor, of Messrs Woollcombe and Young of Plymouth appeared for James Humphrey George Woollcombe and Thomasina Mary Blaikie (Trustees of the Hemerdon Estate, claimants), and Mr G Musket (Estate Surveyor) represented ECC International Limited (claimants).

The parts of the unit land of which no person is registered as owner consist of one large area to the west and two much smaller areas to the east.

The claim of Watts Blake Bearne and Co

This company claimed the two smaller parts. Mr Ash produced a conveyance on sale dated 16 April 1957 whereby Phyllis Cordelia Phillips conveyed to Watts Blake Bearne Limited the whole of these two areas with the exception of the tail of land running south at the east end of the east most area. This land is shown coloured blue on the map attached to this Decision. I am accordingly satisfied that that company are the owners of this land.

*Conveyed
14 Feb 1990
PL-D
and the area
coloured green is
the south of
the west most area.*

The claim of ECC International Ltd

This claim was to part of the largest (western) area. The part claimed is shown coloured yellow on the map attached to this decision.

Mr Musket produced a conveyance on sale dated 21 May 1973 whereby Judith Eileen Strode Cobbold conveyed to English Clays Lovering Pochin and Company Limited certain land which is stated to be delineated "for the purpose of identification only" on a plan annexed to the conveyance. Part of this land lies within the unit land immediately to the west of the part claimed by the Hemerdon Trustees.

He also produced a Certificate of Incorporation on Change of Name dated 1 January 1986 certifying that English Clays Lovering Pochin and Company Limited had changed its name to ECC International Limited.



It was not clear from the plan attached to the conveyance precisely which part of the unit land was owned by ECC International Limited. The parties however agreed the boundary at the hearing. The result is shown on the agreed map attached to this decision. I am accordingly satisfied that ECC International Limited are the owners of the area coloured yellow on that map.

The claim of the Trustees of the Hemerdon Estate

Mr Blaikie produced an office draft of an assent dated 11 April 1955 whereby Francis Rupert Woollcombe and Geoffrey Reginald Woollcombe as executor of the will of George Arthur Ley Woollcombe assented to the vesting in Humphrey William Woollcombe of certain land including -

"various pieces of waste or moorland including parts of Crownhill
Down all of which premises hereinbefore mentioned are delineated
in the plans numbered 1 and 2 annexed hereto..."

He also produced a statutory declaration dated 17 April 1967 made by that same Geoffrey Reginald Woollcombe who was a partner in the firm of Messrs. Woollcombe and Yonge, solicitors of Plymouth, declaring that on 11 April 1955 he and Frank Rupert Woollcombe had executed an assent to Humphrey William Woollcombe and that that assent had been engrossed from the office draft referred to above which was exhibited to the declaration and which had been completed by him personally on the signing of the assent.

The office copies of the plans referred to in the assent which, owing to their size, had never been physically annexed to the draft of the assent, were also exhibited to the declaration.

The declaration went on to describe how the 1955 assent was placed with other deeds in a deed box which was lost during the building of an extension to the firm's strong room in 1966.

The office copy of the plan numbered 2 referred to in the office copy of the assent and in the statutory declaration of Geoffrey Reginald Woollcombe was also produced and shows that among the land vested in Humphrey William Woollcombe by the assent of 1 April 1955 was the whole of that part of the unit land shown coloured red on the map attached to this decision ("the red land").

On that evidence I am satisfied that on 11 April 1955 Humphrey William Woollcombe became the owner in fee simple of the red land.

Mr Blaikie then produced -

(1) a deed of gift dated 15 March 1967 whereby Humphrey William Woollcombe conveyed to himself and Dorothy Shepley Woollcombe, his wife, land which included the red land.

(2) a deed of appointment dated 7 July 1969 reciting that Humphrey William Woollcombe died on 23 December 1968 and that Dorothy Shepley Woollcombe was desirous of appointing new trustees to be trustees of the deed of gift of 15 March 1967, and appointing James Humphrey George Woollcombe and Thomasina Mary Blaikie to be trustees jointly with Dorothy Shepley Woollcombe.



Mr Blaikie having told me that Dorothy Shepley Woollcombe has since died I am satisfied on that evidence that James Humphrey George Woollcombe and Thomasina Mary Blaikie are the joint owners of the red land in fee simple.

Conclusion

I shall accordingly direct the Devon County Council under section 8(2) of the Act of 1965 to register -

1. Watts Blake Bearne and Company PLC as the owners of the two small areas of land coloured blue on the map attached to this Decision.
2. ECC International Limited as owners of the land coloured yellow on that map.
3. ^{James} Humphrey George Woollcombe and Thomasina Mary Blaikie as owners of the land coloured red on that map.

The remainder of the land will 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 27th day of October 1989

Peter Lunn-Davis

Chief Commons Commissioner

Corrected under regulation 33

Peter Lunn-Davis

10 November 1989



JAMES HUMPHREY GEORGE WOOLCOTTE
AND
THOMASINA MARY BLAKEY
Lithographed in 1850
John Lubbock Survey 1875-84
E.C.C. INTERNATIONAL LTD
WATTS BLAKE BERRIE
AND COMPANY PLC
UNCLAIMED

Reference No. 209/10/115
This is the plan referred to in my
Decision dated 17th Combs 1920
Peter Langdon Davis,
Chief Commons Commissioner

UNCLAIMED OWNERSHIP
PARISH ~ SPARKWELL