



COMMONS REGISTRATION ACT 1965

Reference No 210/U/75

DECISION (UNCLAIMED LAND)

In the matter of the tract of
about 17.5 acres called
Middle Halves, Corfe Castle,
Dorset

DECISION

This reference relates to the question of the ownership of about 17.5 acres called Middle Halves, Corfe Castle, Dorset being the land comprised in the Land Section of Register Unit No CL37 in the Register of Common Land maintained by the Dorset 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 the following persons claimed to be the freehold owners of parts of the land in question:-

- (1) Salisbury Diocese
- (2) Major M J A Bond
- (3) Mr L E Sheasby
- (4) Mr L C Seagar
- (5) The National Trust
- (6) Corfe Castle Charities
- (7) Mr P A Brown

and Mrs R Lloyd 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 Wareham on 28 July 1987.

Salisbury Diocese and Major Bond were represented by Mr R J Lewis of Messrs Humberts Chartered Surveyors of Blandford. Mr Sheasby was represented by Mr Child of Messrs Humphries Kirk & Miller, Solicitors of Wareham. The National Trust appeared by Mr T R W Moore, its Land Agent. Corfe Castle Charities appeared by Mr L F Winslow (Clerk) and Mr R A Spiller (Chairman). Mr P A Brown appeared in person. Mrs Rachel Lloyd (a member of the Corfe Castle Society) appeared in person.

The land comprised in this register unit lies at the back of the gardens of the houses on the west side of East Street, Corfe Castle. It is a relic of the ancient common field system, under which the whole was grazed in common during certain periods of the year. The ownership of the land was however divided into strips. Originally each strip was in the same ownership as that of the house between it and East Street. Over the years the ownership of many strips has become severed from that of the corresponding houses.

A previous hearing inquiring into the ownership of this register unit was held by Mr G D Squibb, former Chief Commons Commissioner, at Dorchester on 6 March 1984. At that hearing the National Trust contested the claim of Corfe Castle Charities to one of the strips and Mr Squibb postponed giving his decision to enable them to settle their dispute. Unfortunately, although the dispute has been settled, it took



nearly 3 years to achieve this result. In the meantime Mr Squibb retired. It therefore became necessary to hold a complete re-hearing before another Commissioner, namely myself.

The register map is on far too small a scale to be of any use for the purpose of identifying on it the numerous different strips. The National Trust's Land Agent provided me with a larger scale plan extracted from the 1:2,500 scale ordnance survey map SY 9681 on which some 35 strips or parcels of land have been marked out. These were shown lettered from A to Z (inclusive) running from north to south, and then when those letters have run out, commencing again with the letter A in the extreme south and running up to the letter G.

For the sake of convenience I am annexing to this decision a photocopy of that plan, on which I have made certain modifications. To avoid confusion I have doubled the letters when they occur the second time round, so that they read AA, BB, CC and so on until they reach double I. In referring in this decision to this plan I do so merely for the purpose of identifying the various strips, and it should not be taken as defining the precise boundaries of any particular strip, nor as showing the precise boundaries of the register unit as a whole.

The National Trust is the claimant to the largest number of strips, being those bearing the following letters:-

A, B, E, J, K, P, T, W, Y, Z
AA, CC, EE, GG, HH

Next comes Major Bond, who claims the strips bearing the following letters:-

D, I, L, M, Q, S, U, V, X
DD, II

Mr Sheasby claims strip G.

Salisbury Diocese claims strips H and I.

The Corfe Castle Charities claim strips N and O.

Mr Brown claims strip R.

At the previous hearing the National Trust, as well as the Corfe Castle Charities, claimed strip O. This gave rise to the dispute which, as mentioned above, has now been settled.

In addition at the previous hearing Mr Leonard Charles Seager claimed plots W and Y (which were then and are now also claimed by the National Trust). Mr Seager was then represented by Mr J D Bowie of Messrs James Bowen Caton & Co. Solicitors of Ferndown. At that hearing two Statutory Declarations were produced, which show a prima facie possessory title in favour of Mr Seager. Nevertheless Mr Seager did not appear and was not represented before me, and I can only assume that he has abandoned his claim. In case however he was under any misapprehension as to the need for him to appear or be represented on a second occasion, I shall give him liberty to apply to vary this decision as regards plots W and Y.



- 3 -

Another matter to which I should refer before dealing with the individual claims is that at the hearing my attention was drawn to the misnomer of part of this register unit. Strips A to Z inclusive are properly known as Middle Halves or otherwise (probably more commonly) as Middle HAWES - Hawes apparently being an old word meaning strips of land. South of strip Z however a different name is generally applied, this being Dollands Hawes. Dolland was said to have been a local farmer of long ago. When I inspected the site immediately after the hearing, it was apparent that these two areas are physically distinct, there being a double hedge south of strip Z separating the two. Moreover Dollands Hawes was freshly mown hay, whereas Middle Hawes was open grassland, primarily being used for recreational purposes.

It was suggested to me that as a result of this reference describing the whole of the register unit as Middle Halves (or Hawes), there might be at least one owner of strips in Dollands Hawes who had not attended the hearing because he did not know that it applied to his land. The name of the Smith family was mentioned in this context. The National Trust's Land Agent said that he would make enquiries as to possible claimants to strips in Dolland Hawes who had not yet come forward.

As a result of such inquiries a claim has since the date of the hearing been received at the office of the Commons Commissioners from Mr Grantley Smith on behalf of M V W Smith & Sons. This claim is in respect of strips BB and FF in Dollands Hawes. As no one else made any claim to either of these strips at the hearing, I propose in the circumstances to include consideration of this claim in my present decision.

Analysing all the claims made above, it will be seen that the jig-saw fits almost completely, the only unclaimed strips being C and F. These are both very small strips. C very largely consists of a footpath. F is probably outside the boundary of this register unit. The only duplication of claims (apart from strip O, where as I have said the dispute between the National Trust and the Corfe Castle Charities has been settled) is in respect of strip I, which is claimed both by Major Bond and by Salisbury Diocese.

The National Trust. The title of the National Trust is derived through the late Henry John Ralph Bankes, who died in 1981, leaving part of his estates to the Trust. It appears from various of the older documents before me that members of the Bankes family have for generations been landowners in the Corfe district. Indeed I would go so far as to assume that the family is the same as that of Lady Mary Bankes who successfully defended the castle against Cromwell's forces until betrayed in 1646.

The interests of H J R Bankes was vested in the National Trust by Peter Wardle Pierrepont and John Ralph Bankes by an Assent dated 19 August 1982. The title of H J R Bankes depended entirely on a Statutory Declaration dated 5 September 1974 by Eric Trevor Rhodes. He was Assistant Agent to H J R Bankes for 27 years prior to 1974, and his father was the Agent from 1938 until his death in 1972, in the management of H J R Bankes' Kingston Lacy and Corfe Castle Estates.

Mr Rhodes said he was personally familiar with every part of those Estates, and by means of a Schedule thirty-seven pages long and a number of plans he identified "the situation and shapes of the various pieces of land" of which the Estates were composed, comprising a total of 7,406.76 acres or thereabouts. The plan put before me by the National Trust's Land Agent was based on that Declaration insofar as it



- 4 -

concerned this register unit. The descriptions in the Schedule to which my attention was directed in fact describe the various parcels in Middle Hawes as being in East Hawes; and those in Dolland Hawes as being in Middle Hawes. Any such mis-description is however corrected by the Ordnance Survey numbers, which do in general terms relate to the areas claimed by the Trust.

How Mr Rhodes was able to identify with any certainty some fifteen strips or parcels in an open field (or rather two open fields) remains a mystery to me. He is now dead, so that no further questions can be put to him. It is however significant that since 1974 no one appears ever to have questioned the claims of H J R Bankes and the National Trust as his successors, with the exception of the Corfe Castle Charities in respect of strip O and Mr Seager in respect of parcels W and Y.

Accordingly having regard to the long association of the Bankes family with land in this district, coupled with the facts that no one at the hearing before me challenged the National Trust's claims, and that the strips claimed fitted so precisely into the jig-saw pattern of the other claims, I am satisfied that the National Trust is the owner of all the strips which I have listed above in setting out its claim.

Major Michael John Ashley Bond. Neither the originals nor copies of Major Bond's title deeds were produced to me at the hearing, but Mr Lewis said he would instruct Major Bond's solicitors, May May & Merrimans of Grays Inn, to send these direct to the Office of the Commons Commissioners. This was done, and I now have before me copies of the following documents:-

- (i) Conveyance dated 3 July 1962 between (1) A R Bond and (2) C H May and J E May.
- (ii) Appointment of new Trustee dated 12 September 1966 between (1) J E May and (2) M J A Bond.
- (iii) Conveyance dated 6 June 1972 between (1) J E May and M J A Bond and (2) M J A Bond.

Although it appears to have been a family dealing of some sort, the Conveyance of 1962 was a conveyance on sale and therefore constitutes a sufficient root of title. It bears a clear plan based on the Ordnance Survey Map, on which the property thereby conveyed is shown coloured pink. After a Deed of Appointment of a new Trustee of the 1962 Conveyance, the property is then conveyed outright to Major Bond by the Conveyance of 1972. This Conveyance also contains a clear plan on the 1:2,500 scale, on which the property thereby conveyed is coloured pink. I am satisfied that the plans to both the Conveyance of 1962 and that of 1972 include all the strips which I have listed above in setting out Major Bond's claim including strip I, which was also claimed by Mr Lewis on behalf of Salisbury Diocese. In this case also (with the exception of strip I) no one at the hearing challenged Major Bond's claims; and the strips claimed fit exactly into the jig-saw pattern of other claims.

Mr Sheasby. Mr Child produced a Conveyance dated 29 October 1962 between (1) Robert de Beaufort Welchman (2) William Miles and (3) Mr Sheasby. This was a conveyance on sale, whereby .406 of an acre part of Middle Hawes and part of OS No 545 was conveyed to Mr Sheasby. This was delineated on the plan to a previous



conveyance, of which plan I was supplied with a copy. The area shown on this plan coincides with strip G (but does not include strip F on its western side). I am satisfied that Mr Leslie Ernest Sheasby is the owner of strip G.

Salisbury Diocese. The title of Salisbury Diocese depends on a Statutory Declaration dated 22 December 1984 by Edwin Owen Holland. He was then Chairman of Corfe Castle Parish Council, had been a member thereof for 35 years, and had resided at Corfe Castle for 65 years. He said that he was well acquainted with the area of Glebe land containing .831 of an acre, shown edged red on the plan thereto; that it had formed part of the property of the Benefice of Corfe Castle for at least 20 years prior to 1 April 1978 when it became vested in the Salisbury Diocesan Board of Finance under the Endowments and Glebe Measure 1976.

The land edged red on the plan to that Declaration corresponds with strip H, and I am satisfied that the Salisbury Diocesan Board of Finance is the owner of that strip. Mr Lewis on behalf of the Diocese also claimed the adjoining Plot I. I am not satisfied that this plot was also included in the land to which Mr Holland's Declaration related. On the contrary, as stated above, I am satisfied with Major Bond's claim to strip I.

Corfe Castle Charities. I was supplied with copies of various interesting old documents obtained from Dorset Record Office and from the Charity Commissioners. The Corfe Castle Charities are a group of Charities linked together by a Scheme of the Charity Commissioners made on 26 May 1905. The charity with which I am concerned is The Church Lands Charity. The earliest title deed before me was a copy of a lease dated 18 October 1759 whereby the Churchwardens granted a term of 99 years after the death of the widow of the former tenant of a house and garden containing about 4 goads known as Churchhouse late Henry Marsh's lying on the west side of East Street with a piece of meadow in the Middle Hawes containing about half an acre. Reference is made to this lease in the Report of the Commissioners for inquiring concerning charities made in about 1835, where in the Schedule at page 26 Church House or late Henry Marsh's tenement is described as two tenements on west side of East Street with two small gardens "and the foreshare of half of an acre in a common field, called Middle Hawse". The property can then be traced through the Schedules to two schemes made by the Charity Commissioners, first that of 26 May 1905 and subsequently that of 1 October 1963, where in each case under the heading Church Lands Charity Marsh's Tenement is listed in two parts, with the further entry Marsh Plat or Marsh Plot, Middle Hawse. In the 1905 Schedule the area of this is put at 1 rod 2 perches (ie nearer a quarter of an acre than half an acre).

Mr Spiller gave evidence. He was a retired Estate Agent with 54 years in Corfe Castle Parish. The Charity cottages were now called 102 and 104 East Street. No 104 had been sold, but the lawns behind both properties had been retained. The hawes, he said, were known as lawns. The cottages were 300 or 400 years old, or could be more.

The Charities claimed strips N and O. No one disputed their claim to N, but the National Trust disputed their claim to O. This dispute had been settled by the Trust conveying strip O to the Charities. There was produced to me a Conveyance dated 23 February 1987 between (1) The National Trust and (2) William Cowley and Reginald Alfred Spiller, whereby in consideration of £100 the Trust conveyed strip O to them as Trustees of the Church Lands Charity being one of the Corfe Castle Charities.



- 6 -

This Conveyance is curious, in that strip O is thereby vested in Mr Cowley and Mr Spiller. Under the schemes referred to above, the existing property of the Charities was vested in the Official Custodian for Charities (formerly the Official Trustee of Charity Lands). Although the form of the 1987 Conveyance was approved by the Charity Commissioners, it seems to have been overlooked that the conveyance should have been made in favour of the Official Custodian and not the Trustees.

On this evidence I am satisfied that the Official Custodian for Charities is the owner of strip N and that Mr Cowley and Mr Spiller are the owners of strip O. I suggest that in both cases the Trustees should apply to the registration authority Under Regulation 23 of the Commons Registration (General) Regulations 1966 for a Note to be entered on the Register in accordance with Model Entry 15.

Mr Paul Anthony Brown. Mr Brown produced a Conveyance on sale dated 1 November 1948 between (1) Margaret Lang William Douglas Lang and Mary Sturrock and (2) himself. This included a plot of pasture land situate at the back of premises in East Street containing .369 of an acre, shown on the plan to a conveyance of 24 September 1921. A copy of this Conveyance was produced to me. The parcel of land shown on the plan thereto corresponds with strip R, and I am accordingly satisfied that Mr Brown is the owner of this strip.

The Messrs Smith. For the reasons stated above, although the Smiths did not attend and were not represented at the hearing before me, I propose to consider their claim to strips BB and FF in Dollands Hawes. I now have before me certified copies of various deeds and Abstracts of Title, dating back to 1921. It is not necessary for me to go through these. The last of them is a Conveyance on sale dated 23 September 1964 between (1) Frederick Otto Rhodes and (2) Michael Victor William Smith. This comprises first a parcel of land being part of Dollands Hawes containing .309 of an acre delineated on the plan thereto and edged pink, and secondly the parcel also part of Dollands Hawes containing .162 of an acre edged green on the plan. The parcels of land shown on the plan correspond with strips FF and BB, and I am accordingly satisfied that Mr M V W Smith is the owner of these strips.

I shall accordingly direct the Dorset County Council as registration authority to register the following persons as the owners of the parts of the land specified against their names respectively, under Section 8(2) of the Act of 1965:-

The National Trust

Strips A, B, E, J, K, P, T, W, Y, Z, AA, CC, EE, GG, HH

Major M J A Bond

Strips D, I, L, M, Q, S, U, V, X, DD, II

Mr L E Sheasby

Strip G

Salisbury Diocesan Board of Finance

Strip H

Official Custodian for Charities

Strip N



- 7 -

William Cowley and Reginald Alfred Spiller
Strip O

Paul Anthony Brown
Strip R

Michael Victor William Smith
Strips BB, FF

I give liberty to Mr Leonard Charles Seager to apply within 4 weeks from the date on which notice of this decision is sent to him to set this decision aside insofar as it affects plots W and Y.

Strip C and strip F (insofar as it lies within this register unit) will remain subject to protection under section 9 of the Act.

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 October 1987

Commons Commissioner

