



In the Matter of Egglestone Common, Teesdale D

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DECISION

This reference relates to the question of the ownership of the land described above being the land comprised in the Land Section of Register Unit No. CL 6 in the Register of Common Land maintained by the Durham 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 Eggleston Estate Co Ltd ("the Company") claimed to be the freehold owner of the land in question ("the Unit land") 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 Darlington on 22 July 1980.

At the hearing Mr J Hall, Solicitor, appeared on behalf of the Company.

The Unit land, a common of over 4800 acres, was registered in consequence of an application by the Company to register a right to graze 604 sheep: and there are a number of other grazing rights registered.

By an Indenture dated 19 December 1920 there was conveyed to William Gray a property known as Eggleston Hall and other properties together with (Fourthly) sporting rights, subject to an existing lease thereof, over (inter alia) Egglestone Common, and all manorial rights, except mines and minerals, in and over, and 604 sheep stints on, Egglestone Common. From a plan attached to the Indenture it is clear that Egglestone Common therein referred to comprised the Unit Land.

By a Conveyance dated 26 April 1948 William Gray conveyed to the Company the greater part of the properties comprised in the 1920 Indenture, including the sporting and manorial rights (excepting mines and minerals) in and over, and 604 sheep stints on, Egglestone Common.

Mr Hall accepted that these Deeds did not include, in terms, the soil of the Unit land but submitted that the grant of the sporting rights and the manorial rights over the Unit land was effective to vest ownership of the soil in the Company. On the construction of the Deeds I do not see how they were effective to do more in relation to the Unit land than they purported to do viz. to grant sporting, manorial rights and sheep stints over the Unit land, nor do I know of any principle or authority under which grants of this kind operate to pass the freehold.

In the result I am not satisfied that the Company, or any other person is the owner of the Unit land, and it will therefore 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

15 September

1980

L. J. Morris Smith