



COMMONS REGISTRATION ACT 1965

Reference No. 37/D/85

In the Matter of land off Highgate Road,
Forest Row, Wealden District, East Sussex

SECOND DECISION

This decision is supplemental to my decision dated 11 July 1982 relating to the registration at Entry No. 1 in the Land Section of Register Unit No. CL69 in the Register of Common Land maintained by East Sussex County Council.

Pursuant to the liberty granted in the penultimate paragraph of my said July decision, on the application of the Parish Council I reopened my April hearing and heard further evidence and argument at a hearing in London on 3 December 1982. At this hearing, (1) the Parish Council were as before represented by Mr P T Bilson; and (2) Mrs Patricia Margaret Hunt was represented by Mr T S O'Neill with Stuart Hurrion & Co Solicitors of Woolwich, London SE18. She said that her husband Mr Charles Could Hunt who attended the April hearing, had since died.

Mr Bilson giving further evidence produced: (1) a letter dated 12 August 1982 written by himself on behalf of his Council giving his reasons against my said July decision, and (2) a letter dated 13 August 1982 written by Mr John Clark, as Secretary of the National Association of Local Councils (representing parish, town and community councils in England and Wales).

I agree with Mr Clark when he says (in effect) that to be properly registered: (i) the Unit Land must be "waste land of a manor..." within subsection (1)(b) of section 22 of the 1965 Act; (ii) that I had evidence enough that it was waste land; (iii) that I may conclude that Lord Buckhurst is Lord of the Manor of Duddleswell (being the only possible relevant manor); and (iv) that there is conflicting evidence as to his ownership, his undisputed Ownership Section registration as owner being for and the 1897 conveyance being against.

By section 10 of the Act the registration (Land Section) of any land as common land or of any right of common (Rights Section) is conclusive evidence of the matter registered; but no such conclusiveness applies either when the registration (as in this case at the date of the hearing) is provisional only, or to a registration in the Ownership Section. Mr Clark refers to re Box 1980 Ch 109, re Sutton 1982 1 WLR 647, and Corpus Christi v Gloucester 1982 3 WLR 849.

I accept that in 1970 Lord Buckhurst or his advisers thought that he was the owner, but in the absence of any evidence as to his or their reasons, I infer that he or they relied on the discussion which there had been with the Parish Council before their application for the Land Section registration and on this registration not having been subject to any clear Objection and were not able to base his ownership on any documents of title and did not consider the possibility that the Unit Land was historically part of Bank Farm. So on the balance of probabilities, my conclusion is that re Box supra applied and that the Unit Land was not at any now relevant time waste land of a manor within the said section 22 definition. Accordingly I refuse to vary my July 1982 decision.



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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 18th - day of February - 1983

a. a. Baden Fuller

Commons Commissioner