



COMMONS REGISTRATION ACT 1965

Reference No. 212/U/125

In the Matter of part of Nazeing Wood  
or Park, Nazeing, Epping Forest District,  
Essex

DECISION

This reference relates to the question of the ownership of land in the Register described (perhaps mistakenly) as part of Nazeing Wood or Nazeing Park, Nazeing, Epping Forest District being the land comprised in the Land Section of Register Unit No. CL 483 in the Register of Common Land maintained by the Essex 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 Mr M G Coleman as clerk of Nazeing Parish Council said (letter dated 26.6.78) that he as a resident of the Parish for over 60 years was surprised that this land was unclaimed, as there has always been a residence on it, and it is completely enclosed away from Nazeing Wood or Park. He as clerk to the Trustees of Nazeing Wood or Park also said (letter dated 27.6.78) that this registration would appear to be an incorrect entry in that the land and residence detailed on the plan is certainly not part of Nazeing Wood or Park, but is a privately owned piece of land adjoining it; and that whilst a Common Right attaches to the premises under the Nazeing Wood or Park Act 1947, according to his records it had 8 different ownerships since 1947. No person 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 Chelmsford on 18 October 1979. At the hearing (1) the Trustees appointed under the said 1947 Act (10 & 11 Geo. 6, c. xxxix), being Mr D Morgan, Major J C Robinson, Mr J H Moncur, Mr J C Dauris and Mr M J Roos, were represented by Mr M G Coleman their clerk; and (2) Nazeing Parish Council were also represented by Mr Coleman who is their clerk too.

The land ("the Unit Land") as marked on the Register map appears to be about 90 yards long from northeast to southwest and about 30 yards wide. It is on the northeast side of a much larger area being the said Nazeing Wood or Nazeing Park which is about 3/4 mile long and a little less wide.

At the hearing Mr Coleman produced a copy of the 1947 Act and of the 1778 Act mentioned in it. He said (in effect):- The large area known as Nazeing Wood or Park is that regulated under the 1947 Act; it is not registered under the Commons Registration Act 1965 and it is distinct from the Unit Land now under consideration. The residence on the Unit Land is known as Kingswood Chase, Nazeing Common and together with the rest of the land is now occupied by Mr Woolf Gander. He (Mr Coleman) thought Mr Gander did not know anything about the proceedings.



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Being of the opinion that Mr Gander ought (as Mr Coleman suggested) to have an opportunity of making an ownership claim, I adjourned the proceedings.

In a letter dated 17 December 1979 Essex County Council said (in effect) that the information about the registration of Nazeing Wood or Park recorded above as having been given to me is inaccurate in that the whole of the Wood or Park is finally registered as indicated on the plan they enclosed (CL 32 is thereon marked as the Register No.). With this 1979 letter they also enclosed a copy of a letter dated 14 July 1970 from the County Council to the solicitors to the Nazeing Wood or Park Trustees referring to a registration application by them relating to the land and questioning whether the registration of the "green land" (meaning Unit Land now under consideration); *and also enclosed a copy of a letter dated 16 July 1970 from* the solicitors in reply ~~saying~~: "the area coloured green was correctly included in the application and we shall be glad if you will please register it. This land was only let by the Trustees ...". The CL 483 registration I am now considering is dated 20 July 1970 and being undisputed became final on 1 August 1972.

I held the adjourned hearing at Chelmsford on 27 January 1981. At this hearing (1) the Trustees of Nazeing Wood or Park and (2) Nazeing Parish Council were represented by Mr M G Coleman as before; and (3) Mr Woolf Gander was represented by Mr M Themistocli articled clerk with Donald Nelson & Co, Solicitors of Wigmore Street, London.

Mr Themistocli produced the documents listed in the Schedule hereto. He said he knew the Unit Land; on it there is a large dwelling house occupied as such, and the land appears to be garden & paddock enjoyed with it.

On the information I have it seems likely that the registration was a mistake, possibly occasioned by some misunderstanding at the time of the correspondence enclosed with the said County Council 1979 letter. However since the registration being undisputed has become final, I have no jurisdiction to avoid it. It may be that the County Council can put matters right under Regulation 30 of the Commons Registration (General) Regulations 1968 upon the following consideration: the regulation is not limited to mistakes made by the Council; the description of the register is twofold, (1) "The piece of land forming part of Nazeing Wood or Nazeing Park ...", and (2) "as marked with a green verge line inside the boundary on ... of the register map and distinguish by the number of this register unit"; the land so marked is not part of Nazeing Wood or Nazeing Park, so unless one or other of these descriptions can in accordance with some recognised principle of law be rejected, the land intended to be registered cannot be ascertained and the registration is a nullity. I am not authorised to advise the County Council as to how they should exercise their powers as registration authority, I can only call attention to the possibility that they might be able to deal with the unfortunate situation which at the hearings before me appeared to have arisen.

My jurisdiction in this reference arising under section 8 of the Act of 1965 is limited to saying whether I am satisfied as to ownership. On the documents produced by Mr Themistocli I am satisfied that Mr Gander is the owner of the land bounded by the



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green verge line on the Register map and accordingly in pursuance of subsection (2) I shall direct Essex County Council as registration authority to register Mr Woolf Gender of Kingswood Chase, Nazeing Wood, Essex as the owner of the land which is in the Land Section of Register Unit No. CL 483 described as the piece of land forming part of Nazeing Wood or Nazeing Park in the parish of Nazeing ... as marked with the green verge line inside the boundary on ... the register map and distinguished by the number of this register unit so far as that all the land so marked is according to the true effect of the registration is registered as common land under the said Act and is land of which no person is registered under section 4 of the same Act as owner.

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.

## SCHEDULE

- November 1970  
Map, on which "land adjoining Kingswood Close" is coloured pink; used at hearing to explain title offered.
- 17 September 1965  
Conveyance by Mrs J A P Boyd-Carpenter to Mr B H Schwarz of Kingswood Chase edged blue on plan with commonable and other rights over Nazeing Wood or Park (does not include above-mentioned pink land).
- 12 March 1968  
Conveyance by Mr B H Schwarz to Mrs Susan Sloan of land described by reference to conveyance of 17 September 1965.
- 6 April 1972  
Conveyance by Mrs S Sloan to Messrs E T Blythe and W Bevitt (as trustees for James Ferguson Sloan) of land described by reference to conveyance of 17 September 1965.
- 16 March 1971  
Conveyance by Essex County Council to Mr J F Sloan of 0.150 acres of land being the above-mentioned pink land.
- 1969  
Abstract of the title of Essex County Council to land at Nazeing Park comprising a conveyance dated 30 October 1925 by Mr A Palmer to Mr W B Hargreaves and a conveyance dated 24 January 1949 by Mr Hargreaves to the County Council of land (according to the plan some 70 acres or more) north of and including the pink land.



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1 September 1972

Conveyance by Mr J F Sloan to Messrs E T Blythe and R W Bevitt (as trustees for himself) of the land comprised in the conveyance of 16 March 1971.

1 January 1973

Conveyance by Messrs E T Blythe and R W Bevitt to Mrs J L Gay of (1) Kingswood Chase described by reference to the plan on the conveyance of 7 September 1965 and (2) the adjoining land by reference of the plan on the conveyance of 16 March 1971.

27 January 1977

Conveyance by Mrs J L Gay to Mr W Gander of land described in the conveyance of 1 January 1973.

Dated this 2nd —

day of March — 1981

*a. a. Baden Fuller*

Commons Commissioner