



Reference No. 273/U/36

COMMONS REGISTRATION ACT 1965

In the Matter of Mynydd-y-Lan Common, Risca

This reference relates to the question of the ownership of part of the land comprised in the Land Section of Register Unit No. CL.33 in the Register of Common Land maintained by the Gwent 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 W J Thorne 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 Cwmbran on 13th January 1988.

At that hearing Mr Richard Hanbury-Tenison who is finally registered as owner of part of the unit land and Mr Mervyn John Thorne a claimant to ownership appeared in person. Mrs D Moore represented the Islwyn Borough Council and Mrs J Clarke represented the Registration Authority.

Mr Thorne claimed to be owner of part of the unit land but was not legally represented and stated that his deeds were at his solicitors. On his undertaking to attend on the adjourned hearing with his deeds and his solicitor I adjourned the hearing.

On 19th July 1988 I held a further hearing at Cwmbran. At that hearing Mr J M H Powell, solicitor, of Treasures of Blackwood represented Mr Thorne. Mr S C Ellard, solicitor, represented British Gas Plc (a new claimant) and Mr R Williams represented the Registration Authority.

After carefully considering the available documents Mr Powell told me that he was unable to support Mr Thorne's claim to ownership of any part of the unit land and was instructed to withdraw that claim.

Mr Ellard on behalf of British Gas Plc claimed ownership of a small area of the common shown coloured red on the plan attached to this decision. He produced a statutory declaration by Alistair Andrews an engineer employed by British Gas and before that by the Welsh Gas Board and the British Gas Corporation (who was present).

This stated that the land was enclosed by a fence by the Welsh Gas Board before 1972 and had remained enclosed ever since without the consent or acknowledgement of title of any person and without payment of any kind to any person and that he had never heard of any claim adverse to the title of British Gas Plc or its predecessors in title. One radio mast after another had been erected upon it.



Mr Ellard told me that as far as he could ascertain the Welsh Gas Board had appropriated this common land without any payment either to the owner of the land or to the owners of rights of common over it and without any statutory authority. There had been some correspondence in 1960 with Lloyds Bank who claimed to be mortgagees in possession of the land but nothing had come of it.

In that thoroughly unsatisfactory state of affairs he could only base his claim on the fact that the Welsh Gas Board had unlawfully occupied this land since 1972, that by virtue of Section 1(1) of the Gas Act 1972 the rights of the Welsh Gas Board vested in the British Gas Corporation who continued to occupy the land and that by virtue of Section 49(1) of the Gas Act 1986 the rights of the British Gas Corporation became vested in British Gas Plc who continued to occupy it and had therefore acquired title under Section 17 of the Limitation Act 1980.

On that evidence I am satisfied that British Gas Plc are the owners of this land and I shall accordingly direct the Gwent County Council as Registration Authority to register British Gas Plc as owners under Section 8(2) of the Act of 1965.

The remainder of the land referred to me 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

29th

day of

July

1988

Peter Landon-Pearce

Chief Commons Commissioner

Wales Gas Radio Stn.
4110
149'41

Home Office
Radio Stn.

and owned
by
P.L.C.

MYNYDD Y LAN

1:2500 O.S. Sheet No. ST 2093

This is the plan number 250/2
marked "A.A.1" referred to in the
Declaration of Alexander Andrews
heretofore covered and declared before
me this 18th July 1988.

A Sheldar

Michael East

Reference No. 273/0/36

This is the plan referred to in
my decision dated 24 July 1988.

Peter Langdon-Davies
Chief Commons Commissioner