



COMMONS REGISTRATION ACT 1965

Reference NO. 273/U/42

In the Matter of two areas of land situate in
Sugar Loaf Mountain Common, Abergavenny

DECISION

This reference relates to the question of the ownership of two areas of land situate in Sugar Loaf Mountain Common, Abergavenny being the part of the land comprised in the Land Section of Register Unit No. CL.4 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 Mrs R E Humphreys claimed to be the freehold owner of the land in question.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Abergavenny on 14th November 1989.

The hearing was attended by Mr N Smith (Chairman) and Mrs J Morris (Secretary) of the Sugar Loaf Commoners Association, Mr S Lewis of Porth-y-Parc, Mr E Cross representing Mrs E L Marston and Mr D J Powell of Jeffreys and Powell, Solicitors of Brecon representing Mrs R E Humphreys.

This Register Unit was registered as common land by the registration authority without application. The registration became final with certain modifications on 11th June 1988, following a Decision of Mr Commons Commissioner Baden Fuller dated 11th April 1988. There are numerous entries in the Rights Section of the Register mostly as to the grazing of sheep and other animals, which became final on 11th June 1988 following such Decision.

There are two entries in the Ownership Section of the Register. The first was of Jessie Robert Rennie claiming ownership of the whole of the land comprised in the Register Unit. The second was of the National Trust, claiming ownership over part of the land. There is a note on the Register that the first entry was withdrawn on the instructions of the Trustee in Bankruptcy of Mr Rennie. The second entry (The National Trust) was confirmed by Mr Commons Commissioner Baden Fuller in his Decision of 11th April 1988 (273/D/127-133) without any modification save such if any as were necessarily consequential on the removal from the Register of the areas specified in that Decision.

The particulars in column 4 of the Ownership Section of the Register of the land in respect of which the National Trust is finally registered read "part of the land described in this register unit edged red of plan annexed hereto". My copy of the Register has no plan annexed, and as no representative of the County Council attended the hearing, I was unable to inspect the original Register. As I understand it however the only land remaining in this Register Unit in respect of which the National Trust is not registered as the owner are the two areas of land in respect of which the present reference is made.



These two areas are a more or less triangular piece of land to the north of Porth-y-Parc and a more or less oval shaped piece to the east of St. Mary's Vale.

Mr Commissioner Baden Fuller referred to these two parcels at the bottom of page 10 and the top of page 11 of his Decision of 11th April 1988. The first he calls "the PQ area" (from the letters which he inserted on the plans annexed thereto), and the second as "OS.No. 101 (Tomkins Meadow)".

Mr Powell produced:

1. Conveyance dated 26th March 1942 between (1) Margaret Viscountess Rhonda and (2) Rachel Janet Owen.
2. Marriage Certificate dated 22nd November 1945 Rachel Janet Owen and John Fitzgibbon Trant.
3. Conveyance dated 5th April 1965 between (1) Rachel Janet Trant and (2) R J H Cooke, D L E Evan-Hughes, G F K Morgan and F Y Thompson.
4. Deed of Appointment dated 1st January 1973 between (1) R J Trant, R J H Cooke, G F K Morgan, F Y Thompson and W D Cooke and (2) D P Trant, C H Davis and R E Trant.
5. Conveyance dated 16th April 1980 between (1) D P Trant and C H Davis and (2) R E Trant.
6. Marriage Certificate 18th May 1984 R E Trant and J H L Humphries.

From a perusal of the various plans it appears to me that the PQ area comprises O S No. 61 and part of O S No. 59. Both these O S Numbers are included in Part 1 of the First Schedule to the 1942 Conveyance as being part of the land thereby conveyed, and the PQ area is clearly included in the land coloured pink on the plan thereto being the land described in Part 1 of that Schedule.

The oval area (or Tomkins Meadow) comprises O S 101 and this is described in Part 2 of the First Schedule as a detached parcel containing 0.832 acres or thereabouts, and as being coloured yellow on the plan thereto. This is part of the land conveyed by the 1942 Conveyance.

The 1942 Conveyance was not made on sale but was a deed of gift in favour of Rachel Janet Owen. It is however sufficiently old to constitute a good marketable title. Rachel Janet Owen became Rachel Janet Trant, and by the 1965 Conveyance she conveyed the land comprised in Parts 1 and 2 of the First Schedule to the 1942 Conveyance to Trustees upon trust for the benefit of her children. This is followed by the Deed of Appointment of New Trustees of 1st January 1973. By the Conveyance of 16th April 1980 the Trustees conveyed the property described in Parts 1 and 2 of the First Schedule to the 1942 Conveyance to David Patrick Trant, Clare Hope Davis and Rosemary Eileen Trant upon trust for sale and to hold the net proceeds of sale for themselves as tenants in common in equal shares. By the Conveyance of the 16th April 1980, after reciting that David Patrick Trant and Clare Hope Davis had agreed to sell their shares to Rosemary Eileen Trant, the property described in Parts 1 and 2 of the First Schedule to the 1942 Conveyance was conveyed to Rosemary Eileen Trant in fee simple. She became Rosemary Eileen Humphreys on 18th May 1984.



Mr Lewis said that he attended the hearing only because he wished to be sure that the right of way which he claimed over the PQ area would not be affected by my Decision. I explained that my jurisdiction did not extend to rights of way, but that if he wished to have his claim recorded he could apply to the registration authority for a note to be entered on the Land Section of the Register under Regulation 24 of the Commons Registration (General) Regulations, 1966. Mr Powell said that he had no instructions in the matter, but he did not think that his client would interfere with Mr Lewis's reasonable user.

The area known as Tomkins Meadow is a curious feature, being an isolated parcel entirely surrounded by land owned by the National Trust. I made an informal site visit to it on the afternoon of the hearing accompanied by my Clerk. It is an unenclosed clearing in the undergrowth, bounded to the east by a line of trees and to the west by land falling sharply down to the stream. It is, today, extremely difficult of access on foot. Its origin and history remain unknown to me.

On this evidence I am satisfied that Rosemary Eileen Humphreys is the owner of these two areas of land and I shall accordingly direct the Gwent County Council, as registration authority, to register her as the owner of them under section 8(2) 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

12th

day of

December

1989

Mati Rott

Commons Commissioner