



## COMMONS REGISTRATION ACT 1965

Reference No. 214/U/11

In the Matter of Cross Green, Eversley, Hart D.,  
Hampshire

DECISION

This reference relates to the question of the ownership of land (a tract of about 7 acres) known as Cross Green, Eversley, Hart District being the land comprised in the Land Section of Register Unit No. VG.21 in the Register of Town or Village Greens maintained by the Hampshire 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 Eversley Cricket Club claimed to be freeholders of part of the land, and Solicitors acting for the Trustees of the second Lord Brocket deceased (the registration was made pursuant to an application made by Mr J.C. Catt as agent for his Executors) wrote to the Clerk of the Commons Commissioners saying that they had inspected the deeds and were of the opinion that the property the subject of this reference falls outside the land acquired by their Clients' predecessors, that accordingly they were not in a position to prove ownership, that a conveyance dated 22 December 1949 conveyed to Brocket Estates Limited their Clients' predecessors "all the manorial rights attaching or reputed to attach to the Lordship of the Manor of Eversley including all rights to or over the common verges of the said Manor ... including ... the common and waste lands more particularly described in the second Schedule" and that such Schedule included Eversley Cross comprising 8.388 acres the subject matter of this Register Unit VG.21. No other person claimed to be the freehold owner of the land in question or 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 Winchester on 15 October 1974. At the hearing (1) Eversley Parish Council were represented by Mr J.E.G. Todd their chairman, and (2) Eversley Cricket Club were represented by Mr R.E.W. Pettifer.

After the hearing I looked at the land ("the Unit Land") comprised in this Register Unit. It is crossed by a gravel track which runs from the entrance gates of Eversley Cross House, south-southwest to the main A327 Farnborough to Reading road; this road here runs east and west through the Village. The part ("the East Piece") of the Unit Land on the east side of this track is a well kept cricket field with a pavillion on the north side. The part ("the West Piece") is open grass land with a pond near its centre and some swings and seesaws for children. The Unit Land is attractive and is obviously a valuable amenity for those who live around and near it.



Mr Pettifer, who is the chairman of the Club, in the course of his evidence produced a deed of gift dated 9 October 1964 and made between (i) A.N.R.N. Baron Brocket ("the Donor") and (ii) A.E. Maschwitz, D.G. Davies-Scourfield, R.C.J. Kyle and L.W. Coombs ("the Trustees") by which (in effect) after reciting (A) that the Donor was the estate owner in respect of the fee simple of the land thereafter described subject to the rights (if any) vested in the public by virtue of an Award made by the Inclosure Commissioners and dated 27 January 1868 whereby the land thereby conveyed was with other land awarded to Sir W.H. Cope, Baronet subject to the obligation of preserving the surface thereof in good condition and of permitting the same to be at all times used for exercise and recreation by the inhabitants of the Parish of Eversley and neighbourhood and (B) that the Trustees are the present Trustees of The Eversley Cricket Club, and (C) that the Donor desired to give the land to the Trustees upon trust for the Club, it was witnessed that (1) the Donor conveyed the land therein described being part of the land known as Eversley Cross Green to the Trustees in fee simple subject to the rights and obligations arising out of the Award, (2) the Trustees declared the property was vested in them in trust for the members of the Club according to the rules and (3) the provisions relating to the appointment of new trustees in the rules of the Club would be applicable. The land conveyed by the 1964 deed of gift comprises (a) the east piece (as hereinbefore defined) and (b) a strip of land which seems to have been omitted from the registration because it has been used or may be required, for widening for the A327 Farnborough to Reading road. Mr Pettifer said that Mr Maschwitz and Mr Kyle had died and that the Committee of the Club had appointed two new trustees in their place.

Mr L.W. Coombs (one of the Trustees) who has lived in Eversley ever since he was 2 years of age (he was born in 1910) in the course of his evidence said (in effect):- Ever since he could remember cricket had been played regularly on the East Piece. The Club was going when he was young; it was then called "Eversley Cross Cricket Club". The members cared for the East Piece, and of course did not want anybody to damage it. For many years fetes were held on the Unit Land, those responsible started to invite or allow amusements such as usually make up an Amusement Fair; the people attending left a mess and damaged the grass of the cricket field. Because nobody associated with the Cricket Club had any authority to prevent this, he Mr Coombs and others of the Club, got in touch with Lord Brocket or his Agent, and after some negotiation and discussion with solicitors and others as to the legal position and other matters, the 1964 deed of gift was prepared and executed by Lord Brocket.

Mr Todd said (in effect):- The Parish Council accepted that Lord Brocket had effectively given the East Piece to the Club. They (the Parish Council) would like to own West Piece, but he offered no evidence.

The above evidence shows I think that the ownership of the East Piece is now vested in Mr Davies-Scourfield and Mr Coombs as the surviving trustees of the 1964 deed of gift. In my opinion the evidence does not show that the said ownership has in any way passed to the two persons who the Committee of the Club have appointed as trustees in the place of Mr Maschwitz and Mr Kyle; in the 1965 Act references to



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"ownership" are to "ownership of the legal estate in fee simple" see section 22(2); such legal estate could not be passed to the new trustees merely by a resolution of the Committee; a deed is necessary. It may be that Mr Davies-Scourfield and Mr Coombs are obliged to make some conveyance which will perfect the title of the new trustees, but until they make such a conveyance, the legal estate (the only estate or interest with which I am concerned) remains in Mr Davies-Scourfield and Mr Coombs. For these reasons, I am satisfied that they are the owners of the East Piece, and I shall accordingly under section 8 (2) of the 1965 Act direct the Hampshire County Council as registration authority to register Mr David Gwyn Davies-Scourfield M.C. of Eversley Cross House, Eversley Cross, Hampshire and Mr Lionel Walter Coombs of Hybank, The Centre, Eversley, Hampshire as the owners of the part of the land comprised in this Register Unit which is east of the middle line of the gravel track which runs from the entrance gates of Eversley Cross House approximately southsouthwest to the main A327 road on or near the south side of the land.

In the absence of any evidence of the ownership of the West Piece, I am not satisfied that any person is the owner of it, and I shall accordingly under section 8(3) of the 1965 Act direct the Hampshire County Council as registration authority to register Eversley Parish Council as the owner of the part of the land which is comprised in this Register Unit which is west of the said middle line.

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 28<sup>th</sup> day of November 1974

a. a. Bowen Fuller

Commons Commissioner