



COMMONS REGISTRATION ACT 1965

Reference No. 15/D/67

In the Matter of Garway Common, Garway,
South Herefordshire D., Hereford and Worcester County

DECISION

This dispute relates to the registration at Entry No.1 in the Ownership Section of Register Unit No. CL.118 in the Register of Common Land maintained by the Hereford and Worcester County Council and is occasioned by Objection No. 417 made by Mr. John Thomas Oldfield and noted in the Register on 1 November 1971.

I held a hearing for the purpose of inquiring into the dispute at Hereford on 10 December 1974. The hearing was attended by (1) Garway Parish Council who were represented by Mr. T. Nuttall, their clerk, and (2) Hereford and Worcester County Council, as registration authority, who were represented by Mr. G.H.Holman.

At Entry No.1 in the Ownership Section, Garway Parish Council are registered as the owner of the whole of the land ("the Unit Land") comprised in this Register Unit. In a letter dated 18 November 1974 and sent to the Clerk of the Commons Commissioners, Messrs. Burt, Evans & Shawcross, Solicitors of Ross-on-Wye on behalf of the Executors of Mr. Oldfield (he died on 10 June 1974) stated that they did not wish in any form to continue the objections lodged by Mr. Oldfield; with their letter was enclosed a copy of the probate of his will granted on 19 August 1974 to Mr. Paul Hudson and Mr. Keith Reginald Shawcross, two of the executors therein named out of the Bristol District Probate Registry.

At the hearing Mr. Holman explained the steps taken by the County Council to inform Mr. Oldfield's Executors before the hearing of the objection he had made. Mr. Nuttall described the Unit Land (it extends to about 23½ acres; it is crossed by the Ross-on-Wye to Abergavenny road), and said that the minute books (from 1895 onwards) of the Parish Council show that over the years the Parish Council has been much concerned with the Unit Land. It was on this basis (so he said) that the Parish Council applied to be registered (subject to the rights of the Commoners; the Rights Section contains 16 entries of rights) as owners. The grounds stated in Mr. Oldfield's said Objection (stating their effect shortly) were that the Unit Land (with other commons) was owned by Arthur Ernest Lawley who died on 26 May 1920, and not having been sold with the rest of his Garway Estate, must now belong to his widow Mrs. Elizabeth Wright Lawley or her heirs or assigns, or if that succession has failed, to the Crown; he made no claim to be the owner himself.

Mr. Nuttall said that the Parish Council had tried to get in touch with Mrs. Lawley or her descendants, and could discover no more than that it is believed she went to South Africa.



In my opinion, no useful purpose would be served by any further inquiry into the possible ownership of Mrs. Lawley or her successors. But for the Objection of Mr. Oldcastle, the registration of the ownership of the Parish Council would have become final under section 7 of the 1965 Act. The information given by Mr. Nuttall as outlined above indicates that the Parish Council have reasonable grounds for claiming ownership, and they need not I think incur the expense of formally proving either that the title of Mrs. Lawley has been extinguished under the Limitation Act 1939, or that they have a possessory title.

For these reasons I confirm the registration without any modification.

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 December 1974.

a. a. Baden Fuller

Commons Commissioner