



COMMONS REGISTRATION ACT 1965

Reference No. 42/U/79

In the Matter of Ladywood Common,  
Shelsley Beauchamp, Martley R.D.,  
Worcestershire

DECISION

This reference relates to the question of the ownership of land known as Ladywood Common, Shelsley Beauchamp, Martley Rural District being the land comprised in the Land Section of Register Unit No. CL.116 in the Register of Common Land maintained by the Worcestershire County Council of which no person is registered under section 5 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference Mr. A. Pierce on behalf of Mrs. E. Miller claimed to be the owner of part 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 Worcester on 13 November 1973. At the hearing Mrs. Ethel Margaret Miller of Ladywood Cottage, Shelsley Beauchamp was represented by Mr. A. Pierce.

Mrs. Miller is aged 83 years. Mr. Pierce's wife is her first cousin. Mr. and Mrs. Pierce who reside in London visit Mrs. Miller frequently.

The land ("the Unit Land") comprised in this Register Unit adjoins Ladywood Cottage and the land belonging to it. Mr. Pierce explained that the main water supply for the Cottage is from a spring on the Unit Land near to the stream which runs along the northwest boundary, and that his main purpose at the hearing was to prevent Mrs. Miller being separated from this supply.

Mr. Pierce in the course of his evidence produced copies of the documents of title held by Mrs. Miller, from which it appeared that under a conveyance dated 29 August 1951 the cottage and land known as Ladywood Cottage was conveyed to her in fee simple; the land so conveyed comprises O.S. plots numbered 61 and 62 (together containing .650 of an acre). From Mr. Pierce's description of the land surrounding Ladywood Cottage (there is a bank or low cliff on the northwest side of these plots), and the delineation of the Unit Land (plot numbered 63 containing 5.029 acres), I conclude that the land conveyed by the 1951 conveyance did not include any part of the Unit Land.

Mr. Pierce described to me two wire fences which cross the Unit Land from the north corner of plot 61 and the west corner of plot 62 to the stream, and the path (not marked on the Register map) taken by Mrs. Miller when fetching water from the spring (also not marked on the map). However I am unable to conclude from this description or from any other evidence given by Mr. Pierce, that Mrs. Miller has taken possession of any part of the Unit Land or has thereby or by any other means become owner of any part.



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Mr. Pierce urged me to give some direction which would establish Mrs. Miller's right to fetch water from the spring. In my opinion I have no jurisdiction to do this on this or on any other reference; such right would be an easement; by section 22 of the 1965 Act, the word "ownership" refers to "the ownership of the legal estate in fee simple", and it follows that I am not concerned with easements. Regulation 24(1) of The Commons Registration (General) Regulations 1966 provides for the entry on the Register of Common Land of a note of any easement which may exist, but I have no power to give any direction about this.

Having regard to the above considerations, I conclude that I have no evidence as to the ownership of any part of the Unit Land. For this reason, I am not satisfied that any person is the owner of the land and it will therefore be 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 21st day of November 1973.

*a. a. Baden Fuller*

Commons Commissioner