



COMMONS REGISTRATION ACT 1965

Reference Nos 16/U/74
16/U/75
16/U/76
16/U/77
16/U/78

In the Matter of (1) Sedge Green, (2) Govers Green, (3) Painters Green, (4) Green near Welch's Farm, and (5) Bulls Green, all in Datchworth, East Hertfordshire District, Hertfordshire

DECISION

These references relate to the question of the ownership of lands known as (1) Sedge Green, (2) Govers Green, (3) Painters Green, (4) Green near Welch's Farm, and (5) Bulls Green, all in Datchworth, East Hertfordshire District being the lands comprised in the Land Section of Register Unit Nos (1) CL 104, (2) CL 105, (3) CL 106, (4) CL 107 and (5) CL 110 respectively in the Register of Common Land maintained by the Hertfordshire 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 these references no person claimed to be the freehold owner of the lands in question and no person claimed to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at Hertford on 7 July 1976. There was no attendance at the hearing. In the absence of any evidence I gave a decision dated 12 July 1976 to the effect that I was not satisfied that any person is the owner of the lands, and they will therefore be subject to protection under Section 9 of the Act of 1965.

In December 1976, on the application of Datchworth Parish Council, I set aside my said decision and decided to reopen the said hearing. On 14 January 1981 I held the reopened hearing at Hertford. At this hearing Datchworth Parish Council were represented by Mr R F Norris, solicitor of Brignall, White & Orchard, Solicitors of Knebworth.

Mr Norris in the course of his evidence produced the documents listed in the Schedule hereto. He said (in effect):- He had lived in the Parish for 20 years. By comparing the plans on the May 1974 conveyance with the copy of the Register map available at the hearing, he could identify the second, third, fourth and fifth lands mentioned in the conveyance respectively with (2) CL 105 Painters Green, (3) CL 107 Green near Welch's Farm, (4) CL 104 Sedge Green and (5) CL 105 Govers Green. Before the conveyance he on behalf of the Parish Council personally considered the title of Mr T Abel Smith to the lands thereby conveyed: having come across the title before he did not require any abstract, and accepted the 1973 letter by which Mr T Abel Smith's solicitor explained that he had no documentary title to the first, second, third and fourth lands although his ownership had been accepted in other cases particularly in 1969 in relation to Bulls Green (below mentioned); but Govers Green, the fifth land was part of Woodhall Estate, and of this Mr Abel Smith could convey as beneficial owner.



The Woodhall Estate he (Mr Norris) could say is mostly at Watton at Stole, a parish which adjoins Datchworth, and at any rate up to 1945 the Estate included lands in Datchworth near to those now in question. He could say that during the time he had resided in the parish all these lands had been used for recreational purposes by the inhabitants.

As regards CL 105 Govers Green, I conclude that the Parish Council have a satisfactory paper title. As regards CL 104 Sedge Green, CL 106 Painters Green and CL 107 Green near Welch's Farms the paper title is open to the criticism that the 1974 conveyance shows that at that time the title of Mr T Abel Smith was considered to be doubtful. But from the use of the lands described by Mr Norris, I infer that they were by many treated as Parish property; if they could properly be regarded as such they would vest in the Parish Council by operation of law. As to ownership the only possible alternatives are that these lands have always been Parish property which even before the 1974 conveyance were vested in the Parish Council or that they were in the ownership of Mr Abel Smith as Lord of the Manor of Datchworth. As his interest has been by the 1974 conveyance got in, I conclude that the Parish Council are the owners on either alternative of all these three Greens.

The CL 110 Bulls Green comprises 4 pieces: (a) a piece approximately square with sides of 100 yards or more; (b) a strip about 600 yards long extending eastwards from a point near Coltsfoot Farm the road junction near the said square piece; (c) and (d) 2 small pieces of land near the east end of the said strip. The paper title depends as regards the west and greater part of strip (b) on the May 1974 conveyance (such part being therein called "the first land"), and as regards the east and smaller part of strip (b), and the whole of the square piece (a), and the small pieces (c) and (d), on the 1969 and March 1974 conveyance. As regards the square piece (a) the paper title is satisfactory under these two conveyances being part of the land in the 1969 conveyance called the green land, but as regards the east part of piece (a), and the small pieces (c) and (d), the paper title is open to the same criticism as above mentioned in relation to the May 1974 conveyance, these pieces being part of the land therein called the pig^{gy} land; and the paper title to the west part of the strip (b) ~~for~~ the May 1974 conveyance ~~is~~ open to the same criticism.

However upon considerations similar to those above set out as to the possibility of all these lands having always been Parish property, I conclude that the Parish Council are also the owners of all the 4 pieces which together make up CL 110 Bulls Green.

On the above reasons I am satisfied that the Parish Council are the owners of all these lands and I shall accordingly direct the Hertfordshire County Council as registration authority to register Datchworth Parish Council as the owners of the land 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.

FURN OVER



SCHEDULE

8 May 1974

Conveyance by which Mr Thomas Abel Smith after reciting that he was the Lord of the Manor and "as such is believed to be the estate owner in fee simple" of the first, second, third and fourth lands and was "seized" of the fifth land for an estate in fee simple, conveyed to Datchworth Parish Council (a) "so far as he is legally able" the first, second, third and fourth lands, and (b) as beneficial owner of the fifth land.

12 October 1973

Letter from Halsey Lightly and Hemsley, Solicitors of London as to the conveyance to Datchworth Parish Council then proposed.

31 December 1969

Conveyance by which Mr Thomas Abel Smith after reciting he was the Lord of the Manor and "as such believed to be the estate owner in fee simple" of the ~~parish~~ land and was ~~estate~~ owner in fee simple of the green land conveyed to the RDC of Hertford ~~conveyed~~ first his estate and interest in the ~~parish~~ land and secondly the green land.

8 March 1974

Conveyance by RDC of Hertford to Datchworth Parish Council of the parts of the land comprised in the said 1968 conveyance which were in Datchworth.

Dated this 18th —

day of February 1981.

a. a. Bate *Bate*

Commons Commissioner