



COMMONS REGISTRATION ACT 1965

Reference No. 16/U/8

In the Matter of Allens Green  
Playing Field, High Wych, Hertfordshire

DECISION

This reference relates to the question of the ownership of land known as Allens Green Playing Field, High Wych, being the land comprised in the Land Section of Register Unit No.V.G.15 in the Register of Town or Village Greens 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 this reference High Wych Parish Council claimed to be the freehold owner of the land in question and the Department of Education and Science 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 Hertford on 12th April 1972.

On behalf of the High Wych Parish Council evidence was given by Mr. P.K. Fuller, who is and has been for the last 3 years Clerk of the Council and who has lived in the adjoining parish and has known the land for the last 20 years, and by Mr. L.A.C. Helmer, who is and has been ever since 1947 (except during a short illness) chairman of the Council.

In the course of the hearing a question arose as to the identity of the land the subject of this reference. In order to resolve this question it is necessary to consider two pieces of land. The first is a piece ("the east land") on the east side of the road delineated on the Register Map referred to in Register Unit No.V.G.15 and therein coloured green and the second is a piece ("the west land") on the west side of the road delineated on the same map by a black line but uncoloured. This second piece is also delineated on the plan attached to the below mentioned conveyance dated 5th March 1952 and therein coloured pink and also delineated on the Register Map of the below mentioned Register Unit No.C.L.84 and therein coloured green.

Mr.Fuller and Mr.Helmer produced a conveyance dated 5th March 1952 and held by the High Wych Council. The conveyance was made between Gilston Estates Company and the Council. It recited that by a conveyance dated 2nd April 1951 all the estate, right, title and interest of F.E.S. Bowlby in the manor and lordship of Pishicbury was conveyed to Pyrford Court Estates in fee simple, that this company was now called Gilston Estates Company and that the Company was desirous of conveying. It was by the conveyance witnessed that the Company conveyed to the Council in fee simple "the manorial rights and incidents of whatsoever nature of and in and appurtenant to" Allen Green "as delineated" on the plan. I identify the land so delineated as the west land.

The Charity Commissioners who were in this matter acting in co-operation with the Department of Education and Science sent to the Clerk of the



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Commissioners an affidavit exhibiting the conveyance above mentioned.

The only explanation Mr. Fuller and Mr. Helmer could give of the conveyance being of the manorial rights and incidents and not of the land itself was deduced from a letter dated 1st February 1963 and written by Mr. F. Morgan a former Clerk to the Council: from the letter it appeared that in 1949 the land was rough scrub, the Council wished to lay it out as a recreation ground or playing field, they could only do this with the aid of a grant from the Hertfordshire County Playing Fields Association and the National Playing Fields Association, that before such a grant could be obtained the Council must have a legal estate in the land, and that although the Gilston Estates Company made a lengthy search with a view to establishing their title to the land, they felt they could not properly do more than convey the manorial rights and incidents, as they did.

Mr. Fuller and Mr. Helmer said that the west land ever since the conveyance had been used as a recreation ground and playing field and maintained by the Council, that the east land is and has been ever since they have known it scrub land which has not been attended to, that the east land could not sensibly be described as a "Playing Field", that the expression "Allens Green Playing Field, High Wych" would in the locality be understood as referring to the west land, that although "Allens Green" (meaning the Green at Allens Green) could be used as comprehending both the east and west land, in the context of a "Town or Village Green" (as distinct from the context of a common) it would in the locality be understood as referring to the west land which was, because it had been maintained as a recreation ground and playing field visibly quite distinct, and that the Council had applied under the Act to the Hertfordshire County Council to register the west land as a Town or Village Green and the east land as a common.

The description in the register of the land the subject of this reference (Register Unit V.G.15 in the Register of Town or Village Greens) is in effect threefold: (i) "land known as Allen Green Playing Field High Wych", (ii) "as coloured green on the ... Register Map ..." and (iii) "Registered pursuant to application ... made by the High Wych Parish Council".

Mr. B.S. Hewitt employed by the Hertford County Council as a senior administrative assistant (he happened to be present during the discussion of the identity of land the subject of this reference and kindly obtained from the County office the relevant part of the Register) gave evidence to the effect that the application of the High Wych Council referred to in Register Unit V.G.15 related to the west land and that the application of the High Wych Council relating to the east land was that referred to in the Register of Common land, Register Unit No. C.L.84; the Register Unit, which was produced to me, of this Unit described the land comprised in it "... as coloured green on the ... Register Map" and the land so coloured was the west land (not the east land) referred to in the application of the High Wych Council. Mr. Hewitt thought (and I agree with him) that the two plans had been mistakenly interchanged.

I do not base my decision on the identity of the land the subject of this reference on any possible right anyone may have to rectify (in the legal technical sense) the Register by reason of any possible mistake of the Council



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because I think it might be contended that the Act contemplates that a registration which has become final cannot (in the absence of fraud, see section 14) be rectified merely because some mistake has been made. But I must, I think, without regard to any evidence given me of actual mistake determine what is, in the true construction of the Register as it now stands, the land referred to in it.

Of the three possibilities, first that the Register describes no identifiable land and is therefore void, secondly that the Register describes the east land and thirdly the Register describes the west land, I adopt the third. I think that the rules of law applicable to the construction of deeds and wills and generally headed with the legal maxim "falsa demonstratio non nocet", are applicable to the Register. Without the words "as coloured green ... etc" the Register Unit No.V.G.15 accurately describes the west land, with the words the Register Unit does not describe accurately any land; the words may, and I think should be rejected.

Mr.Fuller and Mr.Helmer said that ever since the conveyance the Council has been in possession without any adverse claim.

I think I can properly infer that in the circumstances outlined above the rights of any person who could have claimed adversely to the Council have been extinguished by the Limitations Act.

For these reasons I am satisfied that High Wych Parish Council is the owner of the land and I shall accordingly direct the Hertfordshire County Council as registration authority to register High Wych Parish Council as the owner of the land.

I hope the Hertford County Council as registration authority will alter the Register Unit No.V.G.15 by substituting a revised map showing the west land. Although on the evidence put before me, I have come to the conclusion that the west land was that referred to, other persons who have not this evidence might, I think wrongly, conclude that the east land was that which was registered. In my view, such an alteration is a correction authorised and required by Regulation 36 of the Commons Registration (General) Regulations 1966. I also hope that a corresponding alteration will be made in the Register Unit No.C.L.84.

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.

*a. a. Bowen Julie*

Dated this 10<sup>th</sup> day of May 1972

Commons Commissioner