



In the Matter of East End Green, Furneux
Pelham, Hertfordshire

DECISION

This reference relates to the question of the ownership of land known as East End Green, Furneux Pelham, being the land comprised in the Land Section of Register Unit No. CL 246 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 this reference Mrs R Newstone and Mr and Mrs E G Coe claimed to be the freehold owners of parts 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 Bishop's Stortford on 11 July 1984.

At the hearing Mrs Newstone and Mr and Mrs Coe were represented by Mr A P Taylor, Solicitor, and the Furneux Pelham Parish Council was represented by Mr M Carrington, its Chairman.

The land the subject of the reference is L-shaped, the upright part of the L running southwards from the Maunden Road. At the southern end of the upright part of the L and on the south side of the horizontal part of the L is a house, known as Field Corner Cottage, which was purchased by Mrs Newstone in 1960. The only means of access to Field Corner Cottage is along the upright and horizontal parts of the L. In 1960 part of this land was completely overgrown and in order to take possession of her newly-purchased property Mrs Newstone had to have a drive cut through the undergrowth. Mrs Newstone did not take up permanent residence until 1964. In the following year she employed contractors to remove a ridge in the drive, filling the wheel tracks with stone and covering the whole with gravel. Since then Mrs Newstone has paid for any necessary repairs to the drive and kept it cleared of undergrowth. Mrs Newstone has also planted plants and shrubs in the part of the land adjoining her property on the north.

Mrs Newstone claims to have a possessory title to the drive. There is no reason to believe that the previous owners of her house had anything more than a right of way over this land. I cannot regard the making up of the drive in 1965 and the keeping of it in repair since as the taking of possession of the land, since a person entitled to a right of way is entitled to enter upon the servient tenement and execute such repairs as are reasonably necessary for the enjoyment of his easement. The planting of the plants and shrubs in the part of the land adjacent to the house did, however, in my view, constitute a taking of possession of that land and has continued for long enough for Mrs Newstone to have acquired a possessory title to it.



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Mr Coe has since 1955 been the owner of East End Farm, which is bounded on the east by the northern part of the upright limb of the L. When Mr Coe purchased East End Farm there was a pond in the land on its eastern border. In the late 1950's Mr Coe had the pond filled in and the area was planted with roses. In the land to the north of the pond Mr Coe has maintained rose beds and has planted three cherry trees. To the south of the pond he has planted a shrubbery, while in or about 1965 he planted and has since maintained a beech hedge along the boundary.

On this evidence I am satisfied that Mrs Newstone and Mr Coe are the owners of parts of the land, and I shall accordingly direct the Hertfordshire County Council, as registration authority, to register them as the owners of their respective parts of the land under section 8(2) of the Act of 1965.

In the absence of any further evidence I am not satisfied that any person is the owner of the remainder of the land, which will therefore remain 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

27th

day of

July

1964

A handwritten signature in cursive script, appearing to read 'C. J. Smith', written over a horizontal line.

Chief Commons Commissioner