



In the Matter of The Green in the High Street,
and the Green near the Church, Abbots Langley, Hertford-
shire

DECISION

This reference relates to the question of the ownership of land known as The Green in the High Street and the Green near the Church, Abbots Langley, being the land comprised in the Land Section of Register Unit No. CL.282 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 no person claimed to be the freehold owner of the land in question and no one 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 12 February 1985. At the hearing the Hertfordshire County Council was represented by Mrs L M Homer, Solicitor, and the Abbots Langley Parish Council by Mrs C Driscoll, its Clerk.

The land the subject of the reference was conveyed to the Abbots Langley Parish Council by a Conveyance made 19 June 1950 between (1) The Master, Fellows, and Scholars of Sidney Sussex College, Cambridge and the President, Fellows, and Scholars of Trinity College, Oxford (2) The Parish Council of the Parish of Abbots Langley. By an agreement made 22 July 1954 between (1) The Parish Council (2) The County Council of the Administrative County of Hertford the Parish Council "forthwith" gave up and dedicated to the public the land in question so that it might be used for the purpose of widening and improving the adjoining road. It was further agreed that if and when called upon to do so the Parish Council would at the expense of the County Council deduce their title to and as settlers by a proper deed of Conveyance grant and convey the land to the County Council for ever.

No such deed of Conveyance has ever been called for, so Mrs Driscoll argued that the Parish Council is still the owner of the land. Mrs Homer, on the other hand, submitted that the dedication of the land by the Parish Council for the purpose of widening and improving the road had the effect of vesting the land in the County Council under Section 29 (2) of the Local Government Act 1929 (now replaced by Section 263 (1) of the Highways Act 1980).



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While it is true that the effect of the dedication was to vest the road in the former County Council under the Act of 1929, the effect of such a statutory Vesting was not to transfer the fee simple absolute in the land, but merely to vest in the highway authority the property in the surface of the road and in so much of the actual soil below, and the air above, as might reasonably be required for its control, protection, and maintenance as a highway for the use of the public:- see Tunbridge Wells Corporation v. Baird, [1896] A.C. 434, decided on a similar section in the Public Health Act 1875. It would appear that the draftsman of the 1954 agreement had this point in mind when he included the covenant to execute a deed of Conveyance if and when called upon to do so.

It is provided by Section 22 (2) of the Act of 1965 that a reference to the ownership of land in the Act is a reference to the ownership of a legal estate in fee simple. In my view, this does not include the interest created by the statutory vesting of a highway, so that the ownership which has to be registered under the Act of 1965 is that of the Parish Council.

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

Dated this 22nd day of February 1985

Chief Commons Commissioner.