



COMMONS REGISTRATION ACT 1965

Reference No.219/U/37

In the Matter of Duncan Down,
Whitstable, Kent.

DECISION

This reference relates to the question of the ownership of land known as Duncan Down, Whitstable, being the land comprised in the Land Section of Register Unit No. VG 124 in the Register of Town or Village Greens maintained by the former Kent 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 the Canterbury City Council, Mr A.S.Harvey, Mr F.X.Houghton and Mr H.J.Green, and Mr L.Dartnall 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 Canterbury on 29th July 1975.

At the hearing the Canterbury City Council was represented by Mrs J.L.Hulks, its Chief Legal Assistant, and Mr F.X.Houghton and Mr H.J.Green were represented by Mr E.A.Barton, solicitor. Mr R.A.Cockrell, solicitor, appeared for Miss E.F.Cockrell. There was no appearance by or on behalf of Mr Harvey and Mr Dartnall. Mr H.R.Hutchins appeared in person, but on inspecting the Register Map he was satisfied that his land was not comprised in the Register Unit.

The land comprised in the Register Unit is the undeveloped remainder of a large building estate laid out in the 1890's. The estate was divided into plots as shown on a printed plan entitled "Plan of the Second Portion of the Brimshill and Duncan Down Estates, Whitstable-on-Sea, Kent". There are numerous copies of this plan which were used to identify plots sold by one Alfred George Turner, from whom all the titles produced to me were deduced. The plots were shown on the plan as fronting onto roads which have never been built and to identify them on the ground would be a surveying operation of some difficulty.

Some of the land comprised in the Register Unit is registered under the Land Registration Acts 1925 and 1936 under Title Nos. K 312681, K 415401, and K 400934, and another ^{plot} is the subject of a caution against first registration.

Of the remainder of the land comprised in the Register Unit, I was satisfied as to the ownership of the following plots:-

Nos.1092, 1093, 1094, 1095, and 1096. These plots, with plots 1025, 1026, and 1031 were the subject of a conveyance made 8th August 1910 between (1) John Cockrell (2) Ernest Arthur John Cockrell in which the plots are described by



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reference to the plan on an indenture of conveyance made 20th December 1895 between (1) Alfred George Turner (2) John Cockrell. This conveyance is endorsed with a memorandum, dated 19th July 1923, recording the conveyance of plots 1025 and 1026 to George Rollin. The memorandum does not contain the address of Mr Rollin and there was no evidence before me as to the present ownership of these two plots. The other six plots comprised in the conveyance of 1910 passed under the will of Mr E.A.J.Cockrell, who died on 2nd January 1955, to his widow, Louisa Daisy Cockrell, and his daughter, Ethel Florence Cockrell. Mrs L.D.Cockrell has since died, and Miss E.F.Cockrell is now Mrs E.F.Thayer. The conveyance of 1910 is endorsed with a further memorandum, dated 12th March 1965, recording the conveyance of plot 1031 to William George Relton. The memorandum does not contain the address of Mr Relton and there was no evidence before me as to the present ownership of this plot.

Nos.1128D and 1128G. These plots were the subject of an indenture made 15th July 1918 between (1) Frances Hansmann (2) Catherine Marie Welsh, in which the plots are described by reference to the plan on an indenture of conveyance made 13th December 1895 between (1) Alfred George Turner (2) Conrad Hansmann. Mrs C.M.Welsh died on 10th March 1945 and the plots passed to her executors, Cecil George Houghton and Herbert William Green, both of whom have since died. By a deed of appointment made 6th October 1970 between (1) Gilbert Edward Green, Joan Mary Green, and Edna Wady Green (2) Francis Xavier Houghton and Harry James Green Mr F.X.Houghton and Mr H.J.Green were appointed to be trustees of the will of Mrs C.W.Welsh and so are now the owners of the plots 1128D and 1128G.

No.1122. This plot was the subject of a conveyance made 13th June 1957 between (1) Arthur Charles Rawles and William Harold Rawles, (2) Whitstable Urban District Council. This plot was transferred to the Canterbury City Council on 1st April 1974 by virtue of the Local Government Act 1972.

Nos.1128A, 1128B, and 1128I were the subject of a conveyance made 24th September 1946 between (1) Coralie Mary Seccombe (2) Whitstable Urban District Council. These plots also passed to the Canterbury City Council on 1st April 1974.

I was informed at the hearing that Mr L.Dartnall was the owner of plots 1168, 1169, 1170, 1171, 1180, 1128E and 1128F. An enquiry of Mr Dartnall by the Clerk of the Commons Commissioners resulted in the production of the indenture made 20th December 1895 previously referred to. In addition to plots 1092 to 1096 and 1025, 1026 and 1031, this indenture conveyed to Mr J.Cockrell plots 1168 to 1171, 1180, 1128E and 1128F. There was also produced an indenture made 8th August 1910 between (1) John Cockrell (2) Florence Evelyn Dartnall, wife of Frederick Dartnall, by which plots 1168 to 1171, 1180, 1128E and 1128F were conveyed to Mrs Dartnall. Mrs Dartnall died on 30th January 1964 and her plots were devised to her son, Mr Leonard Dartnall, who still holds them.

On this evidence I am satisfied that Mrs E.F.Thayer is the owner of plots Nos.1092, 1093, 1094, 1095 and 1096; that Mr F.X.Houghton and Mr H.J.Green are the owners of plots Nos.1128D and 1128G; that the Canterbury City Council is the owner of plots Nos.1122, 1128A, 1128B, and 1128I; and that Mr.L.Dartnall is the owner of plots Nos.1168 to 1171, 1180, 1128E, and 1128F. I shall



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accordingly direct the Kent County Council, as registration authority, to register Mrs E.F.Thayer, Mr F.X.Houghton and Mr H.J.Green, the Canterbury City Council and Mr L.Dartnall as the owners of their respective plots under section 8(2) of the Act of 1965.

In the absence of any evidence I am not satisfied that any person is the owner of the remaining unregistered plots and I shall accordingly direct the County Council to register the Canterbury City Council as the owner of those plots under section 8(3) 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 12th day of January 1976

J. G. Gibbs