



COMMONS REGISTRATION ACT 1965

Reference No.19/U/21

In the Matter of The Napps,
Platt, Kent.

DECISION

This reference relates to the question of the ownership of land known as The Napps, Platt, being the land comprised in the Land Section of Register Unit No.C.L.1 in the Register of Common Land maintained by the 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 Malling Rural District Council claimed to be the freehold owner 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 Maidstone on 15th January 1974.

At the hearing the Rural District Council was represented by Mr. F.R. Hetherington, solicitor, and the Platt Parish Council was represented by its Chairman, Mr. Bryan W. Cross.

The Rural District Council has no documentary title to the land in question, but bases its claim on undisputed possession for upwards of twelve years.

The known history of the land begins on 13th January 1919, when the Wrotham Urban District Council made a scheme in respect of it under the Commons Act 1899, which scheme was approved by order of the Board of Agriculture and Fisheries on 22nd February 1919. This scheme was in the usual form and vested the management of the land in the Urban District Council.

By virtue of clause 87(3) of the Kent Review Order 1934, made under the Local Government Act 1929, the management of the land was vested in the Rural District Council. In 1947 the Rural District Council delegated its powers under the scheme to the Platt Parish Council. This delegation was terminated on 6th December 1961, since which date the Rural District Council has again exercised its powers under the scheme.

The Rural District Council relies upon the acts done in the exercise of these powers as evidence of undisputed possession of the land. However, Clause 11 of the scheme provides that nothing in the scheme or in the bye-laws made under it shall prejudice or affect any right of the person entitled as lord of the manor or otherwise to the soil of the common. In my view nothing done in the exercise of the powers under the scheme can properly be regarded as being adverse to the rights of the true owner.

There is no evidence as to who the true owner may be, and I am therefore not satisfied that any person is the owner of the land. Mr. Cross argued that



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in the absence of evidence as to the ownership the case fell within section 8(5)(c) of the Act of 1965 because the powers under the scheme were delegated to the Parish Council between 1947 and 1961. I cannot accept this interpretation of section 8(5)(c). In my view the delegation there referred to is an existing delegation. I shall accordingly direct the Kent County Council, as registration authority, to register the Malling Rural District Council as the owner of the land 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

7th

day of

February

1974

A handwritten signature in cursive script, appearing to read 'G. D. L. Quibb'.

Chief Commons Commissioner