



COMMONS REGISTRATION ACT 1965

Reference No 219/U/51

In the Matter of The Pond and Green, St Mary
Hoo, Medway Borough, Kent

DECISION

This reference relates to the question of the ownership of land known as The Pond and Green, St Mary Hoo, Medway Borough being the land comprised in the Land Section of Register Unit No VG. 205 in the Register Unit No VG. 205 in the Register of Town or Village Greens 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 (1) Cluttons in a letter dated 11 October 1974 as agents for the Church Commissioners for England claimed ownership of the south part ("the Green Piece") of the land, and suggested that Miss M Swan who lived in the School House might show title to the north part ("the Pond Piece"); (2) Miss Swan in a letter dated 17 October 1974 described how she had succeeded in getting the Pond Piece reasonably tidy, had been told the land on which the School, the Pond and the path between them had been given in 1866, but had not been able to identify the donor, and how she and others had difficulties in seeing how the Pond Piece could be maintained; and (3) the Clerk of St Mary Hoo Parish Council requested that should no proven claims to ownership be received by the Commons Commissioners, the land be vested in Medway Borough Council because the Parish Council had insufficient resources for its maintenance. No other person claimed to be the freehold owner of any part of the land in question or 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 Sittingbourne on 20 May 1976. At the hearing the Church Commissioners were represented by Mr A Elvy surveyor of Cluttons, Land Agents and Surveyors of Great College Street, London (with an office in Canterbury where Mr Elvy worked).

Mr Elvy in the course of his evidence produced: (1) a Sale Plan, apparently made in 1869 by Messrs Cobb of Freehold Estates in the Parish; (2) a modern OS map onto which the relevant part of LOT ONE as shown on the 1869 plan had been transcribed; and (3) a bound booklet entitled Rochester Chapter Estates (Adjacent Freeholds), Parish of St Mary at Hoo: General Report: Office Copy, and containing what is apparently a contemporary copy of a valuation dated 26 April 1870 of "The Property purchased by us on behalf of the Commissioners on 23 July 1869, the purchase being now completed".

The 1869 plan shows LOT ONE as comprising St Mary Hall Farmhouse and Buildings, and much land (mostly to the north), and also shows the Churchyard as a rectangular plot extending north and east right up to the road junction, and including the site of the School House and the site of the path which now runs between it and the present Churchyard. The lot apparently then



included the Green Piece but did not include the then Churchyard or the site of the Pond Piece. The description in the 1870 valuation includes an item: "226 building and yard -: 2(r); 19(p)" and refers to a map attached as having been copied from the Particulars of Sale.

Mr Elvy identified the Green Piece as part of Plot No 226 and said that the conveyance to the Commissioners which must have followed the 1869 sale had not been traced; however the Commissioners were in possession of Church Hall Farm because their tenant is now and had been for some years paying the rent to them. The Green Piece was an amenity for the Farm, being a verge island around which ran the back entrance-ways.

On the day after the hearing I inspected the land.

On the evidence summarised above and from what I saw on my inspection, I am satisfied that the Church Commissioners are the owners of the Green Piece, and I shall accordingly under section 8(2) of the Act of 1965 direct the Kent County Council as registration authority to register the Church Commissioners for England as owners of the south part of the land comprised in this Register Unit (such land being for the purposes of this direction considered as divided into two parts as shown on the Register map).

In the absence of any evidence, I am not satisfied that any person is the owner of the Pond Piece. From what I saw on my inspection, I can understand why the Parish Council are reluctant that the Pond Piece should become vested in them. However under section 8 of the 1965 Act as amended by section 189 of the Local Government Act 1972, I have no discretion; if I am not satisfied as to ownership I am required to direct the registration authority to register as owner of the land the local authority specified in sub-section(5), as amended, with the apparent consequence under sub-section (4) that the land will then vest in that local authority; in the circumstances of this case, the local authority is the Parish Council and not the Borough Council. Accordingly I shall direct under section 8(3) of the Act of 1965 the Kent County Council as registration authority to register St Mary Hoo Parish Council as the owner of the north part of the land comprised in this Register Unit.

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 May — 1976

a. a. Baden Fuller

Commons Commissioner