



COMMONS REGISTRATION ACT 1965

Reference No. 20/U/43

In the Matter of Angerton Moss, Angerton
South Lakeland D., Cumbria

DECISION

This reference relates to the question of the ownership of land known as Angerton Moss, Angerton, Duddon, South Lakeland District (formerly North Lonsdale Rural District) being the land comprised in the Land Section of Register Unit No. CL.116 in the Register of Common Land maintained by the Cumbria 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 Mr. A.C. Coulton claimed that the land had been left to him in the will of Joseph Coulton in 1923 and that he had been in possession ever since; and Mr. W.D. Knipe as secretary of the Kirkby Ireleth Commoners' Association said that Mr. R.C. Cleasby, one of their members, is undoubtedly the owner. No other person claimed to be the freehold owner of the land 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 Kendal on 4 March 1975. At the hearing (1) Mr. Richard Clark Cleasby was represented by Mr. W. Atkinson, legal executive with Thomas Butler & Son, Solicitors of Broughton-in-Furness, (2) Mr. Albert Cartmell Coulton attended in person, and (3) Kirkby Ireleth Commoners' Association were represented by Mr. W.D. Knipe, their secretary.

The land ("the Unit Land") comprised in this Register Unit, which according to the Register contains about 21.316 hectares (52.671 acres) is near the sea (Duddon Sands), very near to and on the land side of the railway between Barrow and Millom, and south of the foot of Foxfield Bank. The Unit Land is subject to three rights of turbarry attached to (1) Gill End Farm, (2) Angerton Hall Farm and (3) land at Sandside registered in the Rights Section on the application of (1) Mr. G. Penny, (2) Mr. J.R. Stutt, and (3) Mr. A.C. Coulton respectively.

Mr. Cleasby in the course of his evidence produced (i) a copy of a conveyance dated 13 December 1961 by which Angerton Farm containing about 211.241 acres was conveyed by Mr. W. Singleton and Mrs. H.M. Singleton to Mr. Richard Cleasby, and (ii) an abstract dated 1961 of the title of Mr. W. Singleton and Mrs. H.M. Singleton to an estate or farm known as Angerton. He said (in effect) :- He is a tenant of Hawthwaite Farm, which is about 3 miles away to the north. The R. Cleasby named in the 1961 conveyance was his father who died about 3 years ago; he took over Angerton Farm from his father about 7 years ago. The Unit Land is soft boggy land; he had not used it at all up to now; stock could be put on it for rough grazing, but the grazing is bad. He had never seen anyone cutting peat; on the greater part of the Unit Land (the boggy part) there is now no peat to cut; but there is at the north tip of the Unit Land a peat breast with an old peat track leading up to it.

Mr. Coulton, who is 73 years of age, produced: (i) a paper dated "December 7th 1828" recording "George Coulton Bought a lot of peat mos of Rodger Hunter of Soutergate in the purchas money £9-9s-0d", and endorsed "January 1920 present owner of the above peat moss, J. Coulton, Sandside, Kirkby-in-Furness; (ii) a receipt dated September 29 1919 and signed by Eleanor Walker and Bridget Coulson for the payment by Mr. Joseph Coulton of £2 "for a small plot of peat moss on Angerton Moss near Waitham Hill, distinctl



marked with boundary stones with the letters GC cut thereon", (iii) a copy of the will dated 11 December 1912 (with codicils) of Joseph Coulter, and (iv) a deed poll dated 22 August 1923 by which he (Mr. A.C. Coulter) assumed his present name (in lieu of Albert Cartmell). He said (in effect) that he thought the ownership of his right of turbary would on this reference be in issue as would be the ownership of the land.

Mr. Knipe said he could offer no evidence of ownership.

Since the hearing (pursuant to a suggestion I then made) Thomas Butler & Son on behalf of Mr. Cleasby have sent to the Clerk of the Commons Commissioners an Epitome of Title certified by themselves comprising a copy of a legal charge dated 13 December 1961, by which Richard Cleasby as borrower and Richard Clark Cleasby as guarantor charged Angerton Farm to The Agricultural Mortgage Corporation Limited and a copy of a conveyance dated 3 April 1967 by which Richard Cleasby (among other things) conveyed Angerton Farm to Richard Clark Cleasby subject to the said legal charge.

On this reference I am not concerned with the ownership of any right of common which is registered in the Rights Section of this Register Unit; this reference is made under section 8 of the 1965 Act, and as I read the section, I am now only concerned with the ownership of the legal estate in fee simple in the lands, see section 22 (2). The documents produced by Mr. Coulton do not, I think, refer to any such ownership, and accordingly I express no opinion about them.

The 1961 abstract commences with a conveyance dated 9 February 1904 made by reference to a plan annexed, which plan clearly includes the Unit Land. The 1961 legal charge, also by reference to a plan, clearly includes the Unit Land being O.S. Nos. 1490 and 1490A containing 49.940 and 2.734 acres. The 1961 conveyance is by reference to the O.S. Nos. which include 1490 and 1490A. On these documents, and the evidence of Mr. Cleasby as summarised above, I am satisfied that he is the owner of the estate in fee simple in the land. By reason of the said definition of ownership, I am not concerned with the 1961 legal charge.

For the above reasons, I am satisfied that Mr. Cleasby is the owner of the land and I shall accordingly direct the Cumbria County Council as registration authority, to register Mr. Richard Clark Cleasby of Hawthwaite Farm, Broughton-in-Furness 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 8th ———

day of April ——— 1975

a. a. Baden Fuller

Commons Commissioner