



COMMONS REGISTRATION ACT 1965

Reference No 20/U/108

In the Matter of Freeholds Common,
Whitworth Town, Rossendale District,
Lancashire

DECISION

This reference relates to the question of the ownership of land known as Freeholds Common, Whitworth Town, Rossendale District being the land comprised in the Land Section of Register Unit No CL. 292 in the Register of Common Land maintained by the Lancashire 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 Mrs Haworth claimed (letter dated 2 August 1974) ownership. No other person claimed to be the freehold owner 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 Preston on 9 May 1978. At the hearing (1) Mrs Haworth was represented by Mr S Thorpe, her son in law; (2) Mr W F Lloyd (the registration at Rights Section Entry No 1 of a right attached to Higher Trough Farm to take stone was made on his application) attended in person; and (3) Mrs Constance Priestley Hyslop and Mr George Walter Selwyn Lloyd (the registrations at Rights Section Entry Nos 2 and 3 of rights attached to Drury Lane Farm and Freeholds Farm were made on their application jointly with Mr W F Lloyd as executors of W A C Lloyd deceased) were represented by Mr W F Lloyd.

The land ("the Unit Land") in this Register Unit is (according to the Register map) approximately rectangular being about 130 yards long and about 50 yards wide. Along its southeast side flows a stream (Red Shore), and it is bounded on the southwest by a track.

Mr Thorpe in the course of his evidence produced a conveyance dated 9 March 1950 by which Mrs A Shaw and others as personal representatives of Mr A J Dearden (he died 2 December 1941) conveyed Winterbutlee Farm to Mr and Mrs Haworth. He identified the Unit Land as being within the area edged red on the plan attached to as showing the land comprised in this conveyance. He said (in effect):- The Unit Land is very wet peat pasture (the stream runs by it). There is no stone in the Unit Land. There is a fence between it and the track on the southwest side, but there is no other fence around it, being apparently part of a much larger pasture (about 40 acres) which is northeast of the track. He had lived at the farm since his marriage in 1957.

Mrs Haworth in the course of her evidence said:- She had lived at Winterbutlee Farm for the last 40 years. She and her husband (he died in 1972) bought it under the 1950 conveyance. The Unit Land had always been part of the Farm, and she had never known anyone take stone from it.



Mr Lloyd in the course of his evidence produced an Award dated 20 February 1816 made by an arbitrator, attached to which was a map, which showed the Unit Land as a distinct piece containing 1a 2r 14p. He indicated that although he relied on the 1816 Award as being some evidence that the Unit Land was subject to a right to take stone, he did not either for himself or on behalf of the executors of Mr A C Lloyd claim ownership. Because Mr Thorpe said that if they had known of the registrations in time they would have objected to them, Mr Lloyd was perhaps entitled to indicate that he could substantiate them; however this may be, on this reference I have no jurisdiction to consider any question there may be about the Rights Section Entries having been properly made, and accordingly I gave no consideration to the 1816 Award and refused to allow Mr Lloyd to address me about its possible effect.

Mr Lloyd indicated that he did not wish to call any evidence which would prevent me from giving full effect to that offered by and on behalf of Mrs Haworth in support of her ownership claim. Such evidence, as summarised above, seems to me cogent, and I am therefore satisfied that she is the owner of the land and I shall accordingly direct the Lancashire County Council as registration authority to register Mrs Mary Haworth of Winterbutlee Farm, Shawforth, near Rochdale 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 ~~18th~~ 18th day of May

1978

a. a. Bader Fuller

Commons Commissioner