



COMMONS REGISTRATION ACT
1965

Reference No. 220/U/41

In the Matter of land known as Jam Hill
and Scholfield Rough in the former Urban
District of Whitworth

DECISION

This reference relates to the question of the ownership of land known as Jam Hill and Scholfield Rough in the former Urban District of Whitworth, Lancashire being the land comprised in the Land Section of Register Unit No. CL.300 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 Nellie Eveline Barnett claimed to be the owner of the part of the land known as Jam Hill and Mr E Chadwick claimed to be the owner of the part of the land known as Scholfield Rough and Mr S Thorpe 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 Rawtenstall on 7th July 1987.

Mrs Nellie Eveline Barnett appeared by Mr T M Bird, Solicitor of Messrs. Holt and Longworth of Rawtenstall as agents for Messrs. Rhodes & Co of Rochdale. Lancashire County Council (the registration authority) appeared by Mrs Cunliffe, its registration officer. Mr E Chadwick did not appear, and was not represented.

This register unit consists of two entirely separate pieces of land, some distance apart from each other, separated by part of what I understand to be the much larger unit of common land comprising CL.213.

Mrs Barnett's claim is limited to the northern parcel, known as Jam Hill.

Mr Chadwick's claim, made by correspondence but not pursued at the hearing, was to the southern parcel, Scholfield Rough.

On behalf of Mrs Barnett Mr Bird produced:-

- (i) The original of a Conveyance dated 13th December 1962 between (1) Lees Whitehead and (2) Christopher Benjamin Barnett
- (ii) Original Statutory Declaration sworn on 29th May 1963 by James Bentley
- (iii) Grant of Letters of Administration dated 13th August 1965 to the Estate of Christopher Benjamin Barnett in favour of Mrs Barnett
- (iv) Original Assent dated 17th September 1965 by Mrs Barnett in favour of herself.

The description of the land conveyed by the Conveyance of 1962 contained in the parcels clause thereof could only be followed with the aid of evidence as to the persons owning or occupying the adjoining land on each boundary at that date.



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No such evidence was tendered. A large scale plan is however annexed to that Conveyance, and although this is stated to be for purposes of identification only, it is sufficient to satisfy me that the land thereby conveyed included the whole of that part of the unit land known as Jam Hill. The Statutory Declaration of 1963 relates to a further parcel of land to the south of that conveyed by the 1962 Conveyance, and it seems to me to the south of the Jam Hill section of the unit land. It is not therefore relevant to the present claim, although it may be when claims to CL.213 come to be considered.

Mrs Barnett confirmed that she was in occupation of the land claimed and was not aware of any disputes concerning it.

Mr Stanley Thorpe (in whose name as tenant grazing rights are finally registered over the whole of the register unit) was present at the hearing and did not dispute Mrs Barnett's claim.

No evidence of any sort was before me concerning the claim made by Mr E Chadwick to the part of the unit land known as Scholfield Rough.

On this evidence I am satisfied that Mrs Nellie Eveline Barnett is the owner of the part of the unit land known as Jam Hill and I shall accordingly direct the Lancashire County Council, as registration authority, to register her as the owner thereof under section 8(2) of the Act of 1965. In the absence of any evidence as to the part of the unit land known as Scholfield Rough I am not satisfied that any person is the owner thereof and it will therefore remain subject to protection under section 9 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

13th

day of

August

1987

Mati Rott.

COMMONS COMMISSIONER