



In the Matter of the Village Green at Burley,
Oakham R.D., Rutland

DECISION

This reference relates to the question of the ownership of land known as the Village Green at Burley (junction of roads leading to Cottesmore-Oakham and Langham), Oakham Rural District being the land comprised in the Land Section of Register Unit No VG.25 in the Register of Town or Village Greens maintained by the Rutland 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 Executors of the late Col. James Hanbury claimed to be the freehold owners 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 Oakham on 8 May 1973. The hearing was attended (1) by Mr J L Reed, Mr E C A W Fleming and Mr H T Brassey ("the Executors") who were represented by Mr M T E Cholerton chartered surveyor, a qualified assistant with Messrs Strutt and Parker, Surveyors, Land and Estate Agents with an office at Grantham and (2) by Oakham Rural District Council who were represented by Mr R L Francis, their clerk.

On behalf of the Executors evidence was given by Mr Cholerton (his firm managed the Burley Estate for the Executors) and by Mr G M Farry articled clerk with Messrs Allen Overy, Solicitors of London (the Executors solicitors).

There were produced to me:- (1) a Vesting Deed dated 15 July 1926 by which it was declared that the lands therein described were vested in Mr W H M Finch, (2) a photographic copy of the probate dated 18 January 1940 of his will (he died 29 October 1939) granted to Mr B F G Currie and Mr J W H Lyte, (3) an Assent dated 27 October 1941 and made by them by which the lands described in and vested by the Vesting Deed were vested in Mr J R Hanbury and (4) an office copy of the probate dated 11 June 1971 of his will (he died 4 March 1971) granted to the Executors.

The land ("the Unit Land") comprised in this Register Unit is a triangular piece of land at the centre of the Village, surrounded on all three sides (except at "the Smithy") by roads; it is all grass land except where it is crossed by a track starting at its north corner. Excluded from the Unit Land (within the longest side of the triangle) is a building ("the Smithy") which is now used as a garage or workshop in conjunction with a nearby building on the other side of the road.

Mr Cholerton estimated the area of the Unit Land and of the Smithy as about a quarter of an acre, and identified them with the piece described in the Schedule to the Vesting Deed as: "No 127 (No on Ordnance Map): Chambers W (present occupier): Smithy and Green (present description): --, 39 (quantity A. r. p.) and marked "127" on the plan annexed. The land comprised in the vesting deed was then known and still is



known as the Burley Estate comprising about 1500 acres.

Mr Francis said that the Unit Land was surrounded by the Burley Estate and was part of it.

In my view the Unit Land is within the description in the Vesting Deed: "the hereditaments and premises mentioned in the ... Second Schedule and on the Plans ... annexed..." , notwithstanding that it is not (extraordinary as it may seem) within the pink edging on the plan; the number 127 appears on the plan so the Unit Land is "mentioned" on it. On the evidence summarised above I am satisfied that the Executors are the owners of the land, and I shall accordingly direct the Rutland County Council, as registration authority, to register (1) Joseph Leonard Reed of 9 Cheapside, London, EC2V 6AD, (2) Edward Charles Augustus Willis Fleming of Villa Josephine, Madliena, Malta and (3) Hugh Trefusis Brassey OBE, MC of the Manor Farm, Little Somerford, Chippenham, Wiltshire as the owners 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 24th day of May 1973

a. a. Budden Fellen

Commons Commissioner