



COMMONS REGISTRATION ACT 1965

Reference No. 45/U/311

In the Matter of Hunter Bark, Settle,
Craven District, North Yorkshire

DECISION

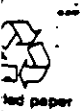
This reference relates to the question of the ownership of land known as Hunter Bark, Settle, Craven District being the land comprised in the Land Section of Register Unit No. CL. 256 in the Register of Common Land maintained by the North Yorkshire County Council (formerly West Riding County Council) 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, on behalf of Miss A H Preston a claim was made that she is the owner of the land in question or part of it. 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 Skipton on 24 March 1976. At the hearing (1) Major General T H Birkbeck (Entry No. 1 in the Rights Section was made on his application) was represented by Mr H Jordon solicitor of Jordon Charlesworth & Co Solicitors of Settle, (2) Miss Alice Mary Preston (Entry Nos. 4 and 5 in the Rights Section were made on her application) was represented by Mr G H Skelton solicitor with Hart Jackson & Sons, Solicitors of Ulverton, Cumbria, (3) The most noble Mary Alice Duchess of Devonshire and Mr Thomas Edward Sydney Egerton (the Trustees of the Chatsworth Settlement) were represented by Mr J M Sheard their agent (as regards their Yorkshire Estate) at Bolton Abbey, and (4) Settle Town Council were represented by Mrs D W Cokell their chairman (accompanied by Mr A Bradley and Miss B Graham members).

According to the copy of the Register map with my papers the land thereon edged green named Hunter Bark, and numbered CL. 256 is in two pieces: one piece ("the West Piece") approximately rectangular which is on the said map hatched black, and the other piece ("the East Piece") approximately square with a narrow strip projecting south from the southwest corner of the square, which is on the map not hatched. At the beginning of the hearing, there was some discussion as to whether the land now comprised in this Register Unit did or did not include the West Piece. I conducted the hearing and give this decision on the basis that the land so comprised (according to the Register it contains 27 acres) is the East Piece only and does not include the West Piece; I deduce this basis from the Objections noted and the amendment appearing in my copy of the Register, and the confirmation given on the telephone by the County Council as registration authority.

Mr Skelton said that on this basis Miss Preston had no ownership claim, although she may be concerned because of the registered rights. Mr Jordon said that General Birkbeck did not claim ownership in addition to his registered rights. Mr Sheard said that the Chatsworth Trustees claimed ownership of the East Piece.





Miss Graham said that in 1972 the Settle Parish Council (the predecessors of the Town Council), being concerned with the use of the East Piece for tipping and wishing to establish ownership, wrote to Mr Sheard, and she produced his reply dated 6 June 1972. Mr Sheard then asked that the proceedings be adjourned for a year because the Estate Solicitors had not been able to make a full search of the manorial rights of the Chatsworth Trustees to the Manor of Settle; this application was not agreed by the Town Council, and having regard to the terms of the 1972 letter produced I refused it.

Mr Sheard whose employment by the Trustees started in 1970, said (in effect) that the Dukes of Devonshire have successively been Lords of the Manor of Settle, and that the legal estate which includes the Manorial Rights in the Parish had now devolved on the Trustees. He produced from the Estate Records a copy letter dated 18 August 1897 from T & J L Brayshaw to Messrs Currey Holland & Currey; this letter referred to five open spaces (the Market Place, the Folly, the Green, a small piece and the Pound) which the Parish Council asked the Duke to convey and continued: "there is also a pasture or common near Settle called "Hunter Bark". His Grace has certain manorial rights thereon, as also have the Commoners of Settle. These rights seem rather vague, but we have not been able to exactly define them or ascertain their origin. They however include the right to get Stone, Sand and turf, and to eat the herbage. Sporting rights, if any, we do not know about. As this also is of no value to His Grace, is it asking too much if the Parish Council request him to transfer his rights thereon to them, as representing the Town. He (Mr Sheard) thought that Mr Brayshaw was at the time the agent of the Duke in Settle, and that Currey, Holland & Currey were his solicitors; however the letter indicates that the writer was also acting for the Parish Council as he describes them as "our clients". Mr Sheard had found no copy of the reply to the 1897 letter, although he was able to produce another 1897 letter showing T & J L Brayshaw to be solicitors of Settle.

I shall in this decision assume that the Chatsworth Trustees could if need be by documentary evidence or otherwise prove that the Manor of Settle has from some time before 1897 been owned in succession by the Dukes and is now vested in the Chatsworth Trustees as suggested by Mr Sheard. I say assume, because in my view there was not enough evidence to prove this ownership; but I record that I would have allowed such evidence (which I guess would be formal and easy to obtain) to be given after the hearing, if I had thought that with it I could from the evidence at the hearing reach any conclusion about the ownership of the East Piece.

In my view a lord of a manor, does not show that he is the owner of land registered under the 1965 Act merely by showing that land is in a parish which bears the same name as the Manor.

There must be some evidence in addition, e.g. that the land in question belonged or was reputed to belong to the manor when the deeds conveying the manor were made, so that the land under such deeds passed with the manor by the operation of section 62 of the Law of Property Act 1925.

As to any such belonging or reputed belonging of the East Piece to the Manor of Settle, there was I think for the following reasons no sufficient evidence.





As to the 1897 letter:- It was agreed that the five open spaces therein described are now in the reputed ownership of the Town Council, so it seems likely that the then Duke did generously give them to the Parish Council. As regards the East Piece (which I identify with the Hunter Bark mentioned), the letter leaves at least three possibilities: the Duke may, because he thought the Piece to be of some value or for some other reason, have refused the request to transfer it to the Parish Council, or he (or his advisers) may have concluded that he did not own it and therefore could not properly transfer it as requested, or he may have given it to the Council as requested.

Mr Sheard said the Estate did not own any of the land surrounding the East Piece but that he had been told by Mr E Hey (recently deceased) who preceded him as agent, that he, Mr Hey, had thought that the East Piece belonged to the Estate and exercised sporting rights over it each year, taking a gun and getting the odd grouse and the odd hare. Even assuming that this hearsay statement is admissible in evidence, I cannot deduce from this annual token sporting activity that the land was reputed to belong to the Manor or that the Duke was in possession.

For the above reasons I am not satisfied that the Chatsworth Trustees are the owners of the East Piece. In the absence of any other evidence of ownership, I am not satisfied that any person is the owner, and accordingly the land comprised in this Register Unit will 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 30th day of April ————— 1976

A. A. Bowen Fothergill

Commons Commissioner