



COMMONS REGISTRATION ACT 1965

Reference No. 58/U/13

In the Matter of Black Mixen in the Parishes of
Llanfihangel Nantmellan Cascob and Llanfihangel Rhydithon

DECISION

This reference relates to the question of the ownership of land known as Black Mixen situated in the Parishes of Llanfihangel Nantmellan Cascob and Llanfihangel Rhydithon being the land comprised in the Land Section of Register Unit No. CL.68 in the Register of Common Land maintained by the Radnorshire 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 children of the late Mrs. Edith Williams 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 Llandrindod Wells on 5th June 1973.

The hearing was attended by Mr. T. M. Evans, Solicitor, of the firm of S.G. Thomas & Co., Builth Wells, representing the five children of the late Mrs. Edith Williams (on whose application the land was registered as Common Land, together with the exclusive right of grazing and pasture for 600 sheep), and by Mr. E.A. Williams and Mrs. L. G. Phillips, two of Mrs. Edith Williams' children. Mr. Evans claimed that his clients had acquired a statutory title to Black Mixen by adverse possession on the part of themselves and their predecessors in title to Bach Farm for upwards of 12 years. Mr. Evans contended that there had been a discontinuance of possession by the former owners of Black Mixen, and referred me to Halsbury's Laws of England, 3rd Edition, Vol.24 Page 251.

The salient facts are the following:-

(1) In 1913, Major W.B. Mynors caused to be put up for sale by auction a number of farms in Radnorshire, including the Bach Farm, a farm of some 246 acres with grazing rights on the Sheep Walk known as Black Mixen. The Particulars of Sale contained a Note stating:-

"The Land, the freehold of which is included in the sale, is body-coloured yellow on the Sale Plan, and the Hill Lands over which the right of grazing only are included in the sale, are border-coloured yellow on the Sale Plan. The sole rights of sporting and of burning heather, gorse and fern on these Hill Lands are reserved to the Vendor".

(2) Following the Auction Sale, Major Mynors by a Conveyance dated 3rd November 1913 conveyed Bach Farm to David Mills Thomas Lewis Mills and Elizabeth Ann Mills in fee simple, together with "All That the exclusive right of grazing and pasture on and over the hill or sheep walk called or known as the "Black Mixen" now attached to the said Bach Farm".



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(3) In 1956, Mrs. Edith Williams became the owner of Bach Farm and of the Appurtenant sole right of grazing over Black Mixen. By a Conveyance dated 11th July 1964, Mrs. Edith Williams by way of gift conveyed Bach Farm and the Appurtenant grazing right over Black Mixen to Trustees in trust for her five children.

(4) In 1962, Mrs. Edith Williams entered into an agreement with the Mid-Wales Police Authority granting permission for the Police to build a Radio Transmitting Station on Black Mixen. In 1968, Messrs. S. G. Thomas & Company, as Solicitors for Mrs. Williams' family, negotiated with the B.B.C., as to the terms of a licence permitting the B.B.C., to erect a Transmitting Station on Black Mixen, but in the event the licence was not taken up. By a Deed dated 14th April 1971, the Trustees under the Conveyance of 1964, and their Mortgagees, granted (so far as they lawfully could) to the Radnorshire and North Breconshire Water Board a right of way over Black Mixen to the Radio Station.

(5) The sporting rights over Black Mixen are now enjoyed by Major Lewis.

(6) It appears that for many years past no persons, other than the owner or owners from time to time of Bach Farm or their tenants and Major Lewis, have made any use of Black Mixen.

In my view, the Claimants have not proved that they have acquired a statutory title to Black Mixen, because they have not shown that their possession of the land was adverse. The acts or transactions referred to at paragraph (4) above can all be explained on the ground that the successive owners of Bach Farm had an exclusive right of grazing and pasture on or over Black Mixen. In any event, these acts or transactions relate to a period commencing less than 12 years ago.

On the evidence before me I am not satisfied that any person is the owner of the land and it will therefore be 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 23rd day of July 1973.

A. E. Francis

Commons Commissioner