



In the Matter of Fron-goch Hill, Darowen

DECISION

These disputes relate to (1) the registration at Entry No. 1 in the Ownership section of Register Unit No. CL 12 in the Register of Common Land maintained by the former Montgomeryshire County Council to which there are three Objections No. 116 made by Mrs G. Edwards, No. 122 made by John Howkins and No. 89 made by Mrs Lena Howkins, all noted in the Register on 5 October 1970: (2) the registration at Entry No. 2 in the Ownership Section to which there are two Objections, No. 109 made by Mrs Lena Howkins and No. 121 by the trustees of Edwin Edwards deceased, both noted in the Register on 5 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Welshpool on 3 June 1980. The hearing was attended by Mr J H Parsons, Solicitor, appearing on behalf of T J Thomas (Entry No. 1): by Mr J I Williams, Solicitor, appearing on behalf of Sir Owen W W Wynn (Entry No. 2): and by B W Thistlethwaite, <sup>A</sup> *Solicitor*, appearing on behalf of all the Objectors.

The Unit land is an area of some 133 acres numbered 640 on the OS map 2nd edition 1902.

(1) Entry No. 1 relates to ownership of part of the Unit land being the part lying northwest of the line A.B on the register map ("the NW part").

Mr Parsons produced a Conveyance dated 29 April 1920 whereby there was conveyed to the Purchaser, Thomas Thomas, a farm Nantygarseg and Cegir of some 264 acres. The description of the property in the Schedule included the item "Sheepwalk 28a. 2<sup>1</sup>/<sub>11</sub>p" numbered 912 on the plan. The same property passed to the claimant T J Thomas by virtue of a Conveyance dated 16 May 1940 and a Deed of Gift dated 11 October 1957. It seems to me clear that the item Sheepwalk corresponds to the NW part and that the documents on their face show title ~~to~~ in T J Thomas. This Mr Thistlethwaite accepted but he pointed out that on the 1901 OS map the Unit land is numbered 640 and that the NW part is part of OS 640, not 912 the number appearing on the plan on the 1920 Conveyance. The numbers in that Conveyance are not however stated to be the OS numbers, though it is true that numbers given to other items in the Schedule and on the plan are the same as the OS numbers: even so, I cannot regard this circumstance as effective to displace the evidence of identity of the item with the NW part, furnished by the Conveyance itself.

T J Thomas in 1968 registered as attached to his farm a right of grazing over the whole of the Unit land and, as Mr Thistlethwaite said, this as regards the NW part was unnecessary if Mr Thomas owned it: but I do not consider this of much significance as, even assuming that this aspect of the matter occurred to Mr Thomas when registering the right, there would be little point in expressly restricting the right to the part of the Unit land which he did not own.

No claim to ownership was made by any of the Objectors and in the result the Objections to Entry No. 1 do not succeed and I confirm the registration.

Entry No. 2 relates to the remaining part of the Unit land ("the SE part"), ownership of which has been registered by Sir Owen Watkin Williams Wynn. Mr Williams said that he had no documents of title specifically describing the SE



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part on which he could base the claim, but that it is waste land of a manor of which ownership in the lord is presumed in the absence of evidence to the contrary: that the Watkin Williams had always been lords of the two adjoining manors of Cyfeilliog and Arwystli, and the SE part is believed to be in Cyfeilliog. Mr Thistlethwaite whilst not disputing these statements said that they were not sufficient evidence of ownership and that there had been no acts of ownership over the Unit land.

Mr Evan Edwards who is a part owner of Tanllan, a farm adjoining the Unit land, in respect of which there are grazing rights registered over the Unit land, gave evidence. He had known the area since the farm came into his family's ownership in 1912 - only grazing and gathering bracken by the commoners went on on the common: in 1965 a fence was put up on the A-B line but taken down when the commoners objected. He did not know of any other acts of ownership over the Unit land and did not think it was part of the Watkin Williams family property.

Dr John Howkins who in 1952 bought Caenhen, which adjoins the Unit land at its south-west corner, and has grazing rights registered over the Unit land, gave evidence. He said that he knew of no acts of ownership - apart from the fencing - over the Unit land and of no rights of ownership in the Watkin Williamses.

The registration of ownership by Sir Owen W W Wynn is supported by the usual statutory declaration, and there is no claim to ownership by the Objectors of any other person, and I think a prima facie case is made out for his ownership, sufficient to require the Objectors to make good their Objections to his claim to ownership. This I do not think they have succeeded in doing and accordingly I shall confirm the registration.

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

14 July

1980

*L. J. Morris Smith*

Commons Commissioner