

COMMONS REGISTRATION ACT 1965

Reference No. 58/D/15

In the Matter of Part of Radnor Forest
(Imperial Metal Industries Ltd. Firing
Range) Llanfihangel Nantmellan and New
Radnor, Powys

DECISION

This dispute relates to the registration at Entry No. 5 in the Rights Section of Register Unit No. CL.61 in the Register of Common Land maintained by the Powys County Council and is occasioned by Objection No. 965 made by Economic Forestry Ltd and noted in the Register on 4th July 1968.

I held a hearing for the purpose of inquiring into the dispute at Llandrindod Wells on 6th January 1975. The hearing was attended by Mr. G W Roddick of Counsel, instructed by Messrs. Dilwyn Jones & Sons, for the Applicant, Leonard Davies Hamer of Brookside Farm New Radnor; and by Mr. Roy Woolley of Counsel, instructed by Messrs. Iliffes, for the Objector, Economic Forestry Ltd.

The right of common registered by Mr. L.D. Hamer is a right "to graze over part of the common land in this register unit, 50 sheep only, subject to the rights of the landlord of the Hill Lands, Great Rhos (Imperial Metal Industries (Kynoch) Ltd.) as described in the conveyance dated 24 June 1949 ... and the right to use the land or any part of it as an ammunition firing range".

It was common ground at the hearing that the part of the common land over which this right was claimed included Esgairnantau; in other words, the land includes the whole of the land comprised in CL.61 which lies to the west of Harley Dingle.

By the Conveyance dated 24th June 1949 the late Sir Henry William Duff Gordon conveyed to Leonard James Hamer (the Applicant's father) in fee simple the farm known as Brookside Farm and "a right of grazing and pasturage for fifty sheep only on the hill-land known as Great Rhos Hill in common with all persons entitled to a similar right ... Except and Reserved unto the Vendor and his successors in title the freehold in the said hill-land and the sole right of sporting over the same and of burning heath, gorse and fern thereon and the sole right of cutting turf or peat and also the sole right to all timber and other trees and all mines minerals and mineral substances on in and under the said hill-land and the right of getting felling raising and removing the same without compensation to the Purchaser and ... the right to plant or replant with young trees the whole or any portion of the said hill-land and to fence the portion or portions so planted for the protection of the trees and without being liable for compensation to the Purchaser."

In his submission to me, Mr. Roddick appeared to rest his case, not merely on the express grant of the grazing rights in the Conveyance of 1949 but also on (a) the fact

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Conveyance of 24th June 1949, and indeed, that is the only right which he has registered. I am satisfied that the right of grazing so granted to Mr. Hamer is a right of common for the purposes of the Commons Registration Act 1965, notwithstanding the fact that it is subject to the rights reserved to the freeholder by the 1949 Conveyance.

For these reasons I 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 this

19th

day of

March

1975

A. E. Francis

Commons Commissioner.