



In the Matter of Penygryn Sheepwalk, Cemmaes

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DECISION

This dispute relates to (1) the registration at Entries No. 1, 4 and 7 in the Rights section of Register Unit No. CL 11 in the Register of Common Land maintained by the former Montgomeryshire County Council and is occasioned by the Objections referred to below, (2) the registration at Entry No. 1 in the Ownership section occasioned by Objection No. 120 noted in the Register on 30 September 1970.

I held a hearing for the purpose of inquiring into the dispute at Welshpool on 5 June 1980. The hearing was attended by Mr E G Jones, Solicitor appearing on behalf of J M Ryder, the applicant for registration of Right No. 7: by Mr J H Parsons, Solicitor, appearing on behalf of D Butler, the applicant for registration of Right No. 4 and the Objector to Rights No. 7 and No. 1: by Mr B W Thistlethwaite, Solicitor, appearing on behalf of the trustees of Edwin Edwards deceased, the applicants for registration of Right No. 1 and the Objector to Right No. 4 and to Entry No. 1 in the Ownership Section: and by Mr J I Williams, Solicitor, appearing on behalf of Sir Owen W W Wynn, the applicant for registration of Entry No. 1 in the Ownership Section.

The Rights Section

The Objection to R No. 1 (Objection No. 132 noted in the Register on 5 October 1970) and the Objection to R No. 4 (Objection No. 42 noted on the Register on 5 October 1970) were withdrawn and accordingly I confirm the registrations at Entries No. 1 and No. 4. The Objection to R No. 7 (Objection No. 131 noted on the Register on 5 October 1970) was accepted and accordingly I refuse to confirm that registration.

The Ownership Section

Under Entry No. 1 in the Ownership section, Sir Owen W W Wynn ("the Claimant") is provisionally registered as owner of the whole of the land in question ("the Unit land"). The ground of the Objection No. 120 is that the Claimant does not own any land in the locality.

Mr T R Leathes, Chartered Surveyor, who has since 1947 acted for the Claimant in matters concerning his estate, produced a map of 1891 which showed Pen-y-gryn, including the Unit land, as part of the estate of the then Lord of the Manor, Sir Watkin Williams Wynn. Mr Thistlethwaite, for the Objector, did not as I understood him, dispute the Claimant's title to Pen-y-gryn except as to part of the Unit land - the part marked with the letter B on the register map. He produced a Conveyance dated 7 February 1894 whereby the Marchioness of Londonderry conveyed to Evan Edwards a farm called Dol Twymyn: particulars of this property were specified in the Schedule and a plan was attached and these did not include the Unit land, but in the text of the Conveyance there were the words "together also with the Sheepwalk or right of depasturing sheep on Pen-y-gryn Common adjoining the said farm and hereditaments".

Mr Evan Edwards, the grandson of Evan Edwards, the purchaser under the Conveyance of 1894, gave evidence. He said that he had known the property all his lifetime and exercised grazing rights over the Unit land: he knew of no act of ownership



-2-

by the Claimant, who did at one time own some adjoining property. In cross-examination he said that they were only claiming the part marked B on which they had grazed sheep and cut bracken.

The wording in the Conveyance which I have quoted is ambiguous in the sense that it is not clear whether it purports to convey the sheepwalk as a piece of land or a right of pasturage over the sheepwalk, but in the context, and having regard to the fact that the sheepwalk is not included in the parcels specifically described in the Schedule and identified on the plan, I am of the opinion that ownership of the soil of the Common was not what the Conveyance did, or purported to, pass. Nor did Mr Edwards's evidence indicate acts of ownership rather than the exercise of grazing rights. In the result I do not find that the Objection succeeds, and I confirm the registration at Entry No. 1 in the Ownership section.

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

A handwritten signature in cursive script, appearing to read 'L. J. Morris Smith'.

Commons Commissioner