



COMMONS REGISTRATION ACT 1965

Reference No. 38/U/16

In the Matter of Copyhold Lane,
Fernhurst, Midhurst R.D., West Sussex

DECISION

This reference relates to the question of the ownership of land (hereinafter called "the referred Land") being part of the land (hereinafter called "the Unit Land") comprised in the Land Section of Register Unit No. CL88 in the Register of Common Land maintained by the West Sussex County Council. The Unit Land is known as Copyhold Lane, and extends from south of Copyhold Cottage thence by track to Shalford and is in Fernhurst, Midhurst Rural District. The part of the Unit Land lying on the west side of the highway known as Copyhold Hill at the northern end and shown enclosed by a blue line on the inset sheet no. 18 of the Register map is registered under the Land Registration Acts 1925 and 1936 under Title No. SX 18004; the Referred Land is so much of the Unit Land as is not so registered. No person is registered under section 4 of the Commons Registration Act 1965 as the owner of the Referred Land.

Following upon the public notice of this reference Mr. P.B.L. Coghlan claimed to be the freehold owner of the land in question and no 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 Chichester on 11 January, 1973. The hearing was attended by Mr. Patrick Boyle Lake Coghlan who was represented by Mr. P.R. Jones Solicitor of Messrs. Burley & Geach Solicitors of Petersfield and by Fernhurst Parish Council who were represented by Mr. H. Merritt who is their chairman.

Mr. Jones stated that Mr. Coghlan did not claim ownership of a small piece of the Referred Land situate at its north end. To an affidavit sworn by Mr. Coghlan on 4 January, 1973, there were exhibited: (i) a copy conveyance dated 1 April 1958 by which after reciting that Lieutenant-Colonel George Baker was the lord of the manor of Diddesfold otherwise Diddlesfold and that the property thereby conveyed formed part of the waste of such manor, it was witnessed that he did thereby convey to Mr. Coghlan a piece of land "forming part of the waste of the said manor" as the same was delineated on the plan annexed "subject to such rights (if any) of the Commoners and the Public as may exist thereover"; and (ii) a copy of the abstract of title of Colonel Baker to the lordship of the manor of Diddesfold. The abstract commenced with the will dated 3 February 1920 of James Henry Baker by which he appointed his son George Baker and J.Y. Knowles executors and devised all his real estate not otherwise disposed of unto his said son; it continued with the probate dated 11 April 1932 of the said will (James Henry Baker died on 3 February 1932) granted to his said executors; it concluded with an assent dated 26 February 1958 by the said executors in favour of Colonel George Baker of "the Lordship of the Manor.. together with the waste of the said Manor as same was vested in the said J.H. Baker at the date of his death...." As appeared from the plan annexed to the said conveyance the land thereby conveyed comprised of the Unit Land (except a small piece at the north end) and a strip of land on the south west of the Unit Land (apparently a continuation of Copyhold Lane).



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Mr. Jones produced for my inspection the original of the said conveyance and the original of the said abstract of title; the abstract appeared to have been professionally examined against the originals on 1 April, 1958.

Mr. Merritt stated he could offer no evidence of ownership of the land which formed the north end of the Referred Land and which was not conveyed by the said conveyance.

With the co-operation of the West Sussex County Council as registration authority who were represented at the hearing by Mr. J.R. Sampson and Mr. M.C. Le Grand, a red line was ruled across a map (hereinafter called "the Direction Map") for the purpose of clearly indicating the northern boundary of the land comprised in the said conveyance. The Direction Map dated 28 December 1972, bears the stamp "Commons Registration Act 1965 West Sussex County Council Registration Authority" and shows marked on it the Unit Land verged green and so far as registered under the Land Registration Acts 1925 and 1936 verged blue. All the land so registered is north of the red line.

Upon the evidence outlined above I am satisfied that Mr. Cogan is the owner of that part of the Unit Land ~~as is shown~~ which is south of the red line ruled on the Direction Map as aforesaid and I shall accordingly direct West Sussex County Council as registration authority to register Mr. Patrick Boyle Lake Cogan of Copyhold, Fernhurst near Haslemere, Surrey, the owner of the said land under section 8(2) of the Act 1965. In the absence of any evidence as to the ownership of the remainder of the Unit Land I am not satisfied that any person is the owner of it and it will therefore be subject to protection under section 9 of the Act 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 of 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 January 1973

a. a. Baden Fuller

Commons Commissioner