



COMMONS REGISTRATION ACT 1965

Reference No. 14/U/101
14/U/102

In the Matters of (1) Chandlers Green, Mattingley,
& Hartley Wespall, and (2) Mattingley Green,
Mattingley, both in Hart D., Hampshire

DECISION

These references relate to the question of the ownership of lands known as (1) Chandlers Green (about 2.018 acres), Mattingley and Hartley Wespall, and (2) Mattingley Green (about 26,698 acres), Mattingley, both in Hart District being the lands comprised in the Land Section of Register Unit No. CL.104 and No. CL.105 in the Register of Common Land maintained by the Hampshire 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 these references Coutts and Company claimed to be the freehold owner of the lands in question and no other person claimed to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at Winchester on 16 October 1974. At the hearing Coutts and Company were represented by Mr F.M. Ferris of counsel instructed by Lee & Pembertons Solicitors of Grays Inn, London.

Mr C. Booker legal executive employed by Lee & Pembertons gave evidence. His firm has for many years acted for Coutts and Company as trustee of the settlement made by Mrs D.P. Davy on her marriage to Mr A.E. Scott Murray, and as trustee of the settlement made by her daughter Mrs Milburn on her marriage. As evidence of the devolution of the legal estate he produced: (i) an indenture dated 4 February 1896 by which the Manors of Putham and Hazell, the mansion house known as Heckfield Place and other lands ("the Heckfield Estate" containing over 2,000 acres) were conveyed to H. Walpole, E.H. Whitehurst and P. Langdale as trustees of the will of H.W. Earl of Orford deceased; (ii) an indenture (being the said marriage settlement of Mrs Davy) dated 25 June 1915 by which after recitals showing that Mrs Davy (then Miss D.P. Walpole) had become entitled in equity to the Heckfield Estate, the lands specified in the Schedule thereto and "all other (if any) the freehold hereditaments and premises forming part of the said Heckfield Estate" were conveyed to Coutts and Company, E.C. Trepplin and P. Langdale; and (iii) certificates of the death of E.C. Trepplin of 3 March 1932 and of the death of P. Langdale on 15 April 1950. The marriage settlement of Mrs Milburn comprised equitable interests under the 1915 indenture.

By the 1915 indenture the land thereby conveyed was described as including: "all ... the messuages ... and hereditaments ... particularised in the first Schedule hereto ... which said hereditaments hereinbefore conveyed ~~and~~ delineated on the plan drawn on or annexed to these presents and thereon coloured green". Neither of the lands in question are particularised in the said Schedule, although both are coloured green on the said plan. Neither are particularised in the 1915 indenture. Mr Ferris contended that I should treat the plan as the decisive description in the 1896 indenture, that accordingly both lands passed under the 1896 indenture (by virtue of the plan) and under the 1915 indenture (by virtue of the general words above quoted), and that accordingly the title of Coutts and



- 2 -

Company was established.

After the hearing, I inspected Mattingley Green. As registered it is eight pieces, but if the intersecting roads are included it may be regarded as one piece approximately 800 yards long from north to south and in places approximately 200 yards wide from east to west, with the A32 road from Reading to Odiham and Alton crossing over it diagonally. It is for the most part trees, under which there is in some places impenetrable scrub, and in other places ground (when I was there wet) not easy to walk over. However several parts are open grass land; the largest of these parts is near the Church and (when I saw it with a splendid background of various trees in autumn foliage) appeared to be a valuable amenity for all coming to or living near the Church; on other open parts there is the Mattingley War Memorial and a 1937 Coronation Seat. Although much of Mattingley Green appears wild (quite unlike lands usually described as "village greens"), it secludes the surrounding and nearby houses from the through motor traffic, and for for this reason (at least) appears to be advantageous to those residing there.

From what I saw on my inspection, and from the terms of the 1896 indenture, I conclude that Mattingley Green was intended to be included in the lands thereby conveyed. Except for a short length at its south end, it is surrounded by lands particularised in the Schedule and coloured green on the annexed plan. Although it may be that in 1896 Mattingley Green was more open than now, its appearance is now and would I think then have been, consistent with it being in the same ownership as the surrounding lands.

I also inspected Chandlers Green. It is a triangular piece bounded on two sides by a road; on it there are some trees and much bracken, and it is apparently waste land unused and unusable. It is mostly if not entirely in the Parish of Mattingley; apart from one dwelling house just over or within the parish boundary, it is some distance from any dwelling houses and remote from any group of houses such as are usually associated with village greens. I can I think properly conclude that it was intended in the same way as Mattingley Green, to be included in the lands conveyed by the 1896 indenture.

So I accept Mr Ferris' contention, and accordingly am satisfied that Coutts and Company is the owner of the lands and I shall accordingly direct the Hampshire County Council, as registration authority, to register Coutts and Company of 440 Strand, London as the owner of the lands under section 8(2) 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

18th

day of November

1974

a. a. Baden Fuller

Commons Commissioner