

[2018] UFTT 0608 (PC)

PROPERTY CHAMBER  
FIRST-TIER TRIBUNAL  
LAND REGISTRATION DIVISION

IN THE MATTER OF A REFERENCE FROM HM LAND REGISTRY

LAND REGISTRATION ACT 2002

REF No 2017/0111  
BETWEEN

WILLIAM GEORGE WRIGHT

Applicant

and

(1) MARGARET RUTH BLYTH  
(2) BRIDGET MARY ROUT

Respondents

Property: Land and buildings on the south side of Palmers Lane, Aylsham

Title number: NK313301

**ORDER**

The Chief Land Registrar is ordered:

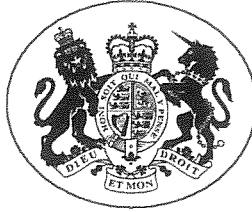
1. To cancel the application dated 9 June 2016.
2. To reject unconditionally any further application by the Applicant to alter the title or any part of it of the property known as Land and buildings on the south side of Palmers Lane Aylsham, registered with title number NK313301.

**BY ORDER OF THE TRIBUNAL**

*Ann McAllister*

Dated this 3<sup>rd</sup> day of September 2018





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**and**

**(1) MARGARET RUTH BLYTH  
(2) BRIDGET MARY ROUT**

**Respondents**

**Property: Land and buildings on the south side of Palmers Lane, Aylsham, Norfolk**

**Title number: NK313301**

**Before: Judge McAllister  
Alfred Place, London  
21 August 2018**

**Representation: The Applicant was represented by Roberta Heslop; the Respondents were represented by Clive Pithers of Counsel instructed by Rogers and Norton**

**DECISION**

**Introduction**

1. The Respondents were registered as owners of a parcel of land and buildings on the south side of Palmers Lane, Aylsham, Norfolk known as Aylsham Sale Yard ('the Land') on 9 September 2004 following the death of their father, Geoffrey Key, who

died in 2001. The Land had previously been unregistered. The Land comprises some 4.6 acres.

2. Mr Key's title was based on six conveyances to him made between 2 November 1953 and 27 June 1988 ('the Conveyances'). The various parcels are shown on the plan attached to the assent to the Respondents dated 7 September 2004.
3. By an application dated 9 June 2016 the Applicant, Mr Wright, applied to alter the registered title held by the Respondents by the removal of part of the Land. The land sought to be removed is shown edged blue on the plan accompanying the case summary to the Tribunal, and is approximately 60% of the Land.
4. The application also included an application to alter the leasehold title (NK331884) held under a lease dated 1 January 2001 for a term of 16 years. The lease is held, as I understand it, by Keys Auctioneers.
5. At the site visit, on the day before the hearing, Ms Heslop (who represented Mr Wright) stated that the application in fact relates to the Land in its entirety. She was not able to give a satisfactory explanation as to why only part of the Land had been included by her when the application to Land Registry had been made. Mr Pithers, for the Respondents, sensibly accepted that I should consider the application as if all the Land is in issue.
6. The essence of Mr Wright's claim has remained the same throughout, albeit that there have been some significant changes to the way his case has been put. It is his case that the Land was purchased by his father, John Wright, from a James Frederick Payne in 1953. John Wright agreed to allow Mr Key to use the Land. The 1953 conveyance had been removed from John Wright's possession on his death bed by Mr Key. Mr Key had purchased other land nearby which, by some means or another, had allowed him to alter or doctor the Conveyances so as to make it appear that these conveyed the Land. At the conclusion of the hearing Ms Heslop re-fashioned her case to some extent, by saying that the plans to (but not the text of) the Conveyances had been altered. She also said (in contradiction to the way the case had been put earlier) that it was no longer Mr Wright's case that this had been done by Mr Key, but by the Respondents. This very serious allegation was not put to either of the Respondents, or Mr Timothy Blythe, Mrs Blythe's son.
7. John Wright died intestate in 1962. He left a widow and 9 children. One of the issues which arises in this case is, in any event, how Mr Wright can make out his claim to be entitled to all or any of the Land (assuming he can show that any of it belonged to his

father at all relevant times). Whatever else may be position, it seems to me clear that he cannot do so.

8. For the reasons set out below I reject Mr Wright's claim in its entirety and will order the Chief Land Registrar to cancel the application made by Mr Wright and to reject unconditionally any further applications by Mr Wright to alter any part of the title to the Land pursuant to Rule 40(3)(a)(i) of the Tribunal Procedure (First-Tier Tribunal) (Property Chamber) Rules 2013.

### **The Conveyances**

9. The first conveyance is dated 2 November 1953 and was made between James Frederick Payne and Mr Key. The land is described as '*all that piece of land situate near Palmer's Lane at Aylsham in the County of Norfolk as the same forms part of Enclosure Number 561 on the Ordnance Survey Map for the Parish of Aylsham and is for the purpose of identification more particularly delineated in the plan drawn herein and thereon coloured red*'. This land is roughly rectangular in shape (with an additional long 'spur') towards Palmers Lane and is at the eastern end of the Land.
10. The second conveyance is dated 30 June 1955 and was made between the same parties. This land is described as '*All that piece of freehold land together with the builders workshop office and buildings thereon situated next Palmers Lane..... having a frontage thereto of fifty three feet or thereabouts and bounded on the north by Palmers Lane aforesaid on the East by a roadway belonging to the Purchaser on the South also by a property belonging to the Purchaser and on the West by a property belonging to Arthur Soul Limited as the said piece of land is for the purpose of identification only more particularly delineated on the plan drawn hereon and thereon edged red..*' This land is immediately to the west of the 'spur' of the land sold by the previous conveyance and north of the remainder of that land.
11. The third conveyance is dated 28 February 1958 and was made between Cecil Skoyles and Mr Key. The land conveyed is described as '*All that piece of land situate adjoining Hungate Sreet in the parish of Aylsham .... As the same is with the measurements thereof more particularly delineated on the plan drawn hereon and thereon edged with red and forms part of Enclosures Numbered 544 and 5456 on the Ordnance Survey Map for the said Parish...*' This land lies to the west of the larger area of land sold under the first conveyance.

12. The fourth conveyance is dated 15 September 1959 and was made between the Rural District Council of St Faiths and Alysham and Mr Key. The land sold is described as *'all that strip of land having an average width of four feet six inches or thereabouts and a depth of one hundred and twenty feet from the road situate at Hungate Street... as the same is bounded on the North and East by land belonging to the Purchaser on the South by land belonging to the Council and on the West by Hungate Street ... as is with the measurements thereof for the purpose of identification only more particularly delineated on the plan drawn hereon and thereon coloured red...'* This land is a narrow strip of land linking the land sold by the 1958 conveyance to Hungate Street.
13. The fifth conveyance is dated 16 December 1969 and was made between the Executrix of Cecil Skoyles and Mr Key. The land sold is described as *'all that piece of freehold land situate in Hungate Street... together with the bungalow known as Windyridge 79 Hungate Street... and the garages and other premises erected thereon As all the said property was lately in the occupation of the Testator and then of the Vendor and is for the purpose of identification and with certain measurements more particularly delineated on the plan annexed hereto edged with red...'* This land is to the south and west of the land sold by the 1958 conveyance.
14. The sixth conveyance is dated 27 June 1988 and was made between Louisa Bumfrey and Mr Key. The land conveyed was described as *' all that freehold land situate at the rear of 83 Hungate Street ... more particularly shown edged red on the plan annexed hereto which land hereby conveyed measures sixty-seven feet or thereabouts on the North side thereof One hundred and forty feet or thereabouts on Eastern side thereon One hundred and eighty-six feet or thereabouts on the Western side thereof and ninety one feet or thereabouts on the South side thereof.'* This land is in the south west corner of the Land.
15. In light of the allegations that some or all of the Conveyances had been tampered with the parties jointly instructed Mr Robert Radley of the Radley Forensic Document Laboratory. Mr Radley was provided with the original Conveyances, including two earlier conveyances dated 18 July 1946 and 28 January 1952.
16. Mr Radley was asked a series of questions on behalf of Mr Wright with a view to determining whether (variously) the plans had been altered, the names had been altered, the documents had been fabricated in their entirety, the conveyances were genuine and whether alterations had been made at a later date.

17. In his report dated 27 October 2017 he stated that he could find no evidence that any of the documents he saw had been altered. In a subsequent email dated 30 November 2017 he further stated that, in the absence of any evidence of alteration, ‘ *the likelihood of the document having been altered in the way suggested is extremely unlikely*’ and that ‘ *I would indicate that in most instances, the evidence overwhelmingly suggests the authenticity of the documents*’ .
18. The Applicant’s Statement of Case and skeleton argument contain a number of detailed comments on the Conveyances, raising what are said to be inconsistencies and points which, it is said, support his case that the plans (and/or the body of the Conveyances) have either been tampered with or in any event raise doubts as to whether any part of the Land was conveyed to Mr Key. In the light of the expert evidence, and the evidence below, I do not need to consider these in detail. The Respondents’ Statement of Case deals comprehensively (and in my judgment accurately) with these points.

### **The Applicant’s case in more detail**

19. I heard evidence from Margaret Lanham, a daughter of John Wright, and from Mr Wright. Other witnesses (Mr and Mrs McDonald, Mr Swan, and Gordon Wright) were too old to travel to London. Mr and Mrs McDonnell assert, without any supporting evidence, that they believe that the 1988 Conveyance was fraudulently created. They also state that they applied in March 2017 to Land Registry to have the Respondent’s title altered to remove all or part of the land purchased by Mr Key by the 1988 Conveyance. This matter is not in any event before me. Mr Swan’s evidence relates to part of the Land and is no more than an assertion that this land was sold to Mr John Wright. Gordon Wright’s evidence was that he was told by his father in the early 1950s that he had bought a piece of land off Palmers Lane, stretching to Hungate Street. He visited the land and can recall a derelict building on the land.
20. Mrs Lanham’s evidence is that her father was very friendly with Mr Key. They visited each other regularly. Mr Key was at John Wright’s death bed. The estate was dealt with by his widow and his daughter, Anne. Mrs Lanham stated that she had not seen any conveyances but that Mr Key emptied the safe with her mother and sister. She could not say what happened to any of the documents in the safe, save to say that she presumed they had been taken to a solicitor. Her mother knew nothing about business,

but was occupied with bringing up her family and looking after the family home, a large farmhouse. Mrs Lanham strongly believes that Mr Key took advantage of her mother's lack of education. She was 24 when her father died.

21. Mrs Lanham helped her father by preparing the livestock for auction. Mr Key would phone her father to ask about the number of pens required for John Wright to auction his pigs. This happened on a weekly basis. In 1952/53 the auction took place on a field (now part of the Land). As to the ownership of the field or any part of the Land her evidence was not entirely clear: at one point she stated that her father never said that the Land or any part of it was his, but just that he would get the auctions going; and then stated that she knew that her father had purchased land which she believed was 'a meadow in the middle of Aylsham'. In her written statement she referred to her father owning the land to the south side of Palmers Lane, but provided no further details.
22. Mrs Lanham also stated that she went to visit Mr Key after her father's death, and he said something to the effect of 'don't worry about the Wrights, worry about me'. She claimed that Mr Key was very uncomfortable in her company.
23. In answer to the question as to the steps taken by her or any member of the family to reclaim all or part of the Land she stated that some steps had been taken in the 1980s. It is certainly the case that the Respondents have been receiving letters from various solicitors acting on behalf of the Applicant and the Wright family since 2004 regarding the ownership of the Land.
24. Mr Wright's evidence was as follows. On an unknown date in 1953 he was with his father in Mr Hunt's saleyard delivering pigs. Mr Key was in the office as puts it, 'moaning and groaning' because he could no longer work for Mr Hunt. His father took the Applicant to look at land nearby, and then they both went to a firm of solicitors, Mr Walker of David Walker Solicitors (who then acted for Mr Key in the purchase of at least some of the parcels making up the Land) where his father paid 10% deposit of the asking price of £400.00 with one cheque and at some point was given the deeds to the Land, although it is not clear if it was all of the Land. Mr Wright was 16 or 17 at the time. The land purchased, he believed, was approximately 6 acres.
25. Mr Wright was not able to say whether it was one or two conveyances, but he believes it was more likely to be one. He saw it, but did not read it. His father's name was on the conveyance. He then stated that he had read it, before Mr Key took the document.

He recalls walking through his grass up to the railway line and it was this land which his father had been told was for sale.

26. Mr Wright's evidence is that his father allowed Mr Key to use the land, and he was told by his father to leave him on the Land until he died.
27. Mr Wright clearly feels very strongly that, as he put it, 'anybody can rob a dead man' and that the family have been deprived of land that was rightfully theirs. It is also clear that not all the family speaks with one voice: his sister Anne does not agree with him and, as he put it, 'does not talk sense'.
28. The sense of grievance was heightened when it became known that Tesco had shown an interest in the Land. Mr Wright stated that an agent had contacted him and asked if Tesco could buy the Land.

### **The Respondents' evidence**

29. I heard from Mrs Rout , Mrs Blyth and Timothy Blyth Mrs Rout gave evidence as to the claims made over time by the Wright family to the Land, and how on every occasion that the Wright family instructed solicitors, the claims fell away when they inspected the Conveyances. She also dealt with the interest expressed by Tesco in the Land. Neither she nor her sister had been contacted directly by Tesco but several parties had expressed an interest in buying the Land. The decision was taken not to sell the Land, partly because it was subject to a lease and compensation would have had to have been paid to the tenant.
30. Mrs Blyth recalls Mr Wright bringing pigs to the Land but never recalled any claim that he or his family owned the Land, and she never met John Wright. She was aware of her father gradually buying parcels of land. She has never had the Conveyances in her possession. The deeds have never left the solicitors' offices.
31. Timothy Blyth grew up near Aylsham spending much of his spare time in the 1970s and 1980s in the sale yard on the Land. He worked part time in the business, then full time from 1992 to 2003. He spent a great deal of time with his grandfather who never mentioned any friendship or business relationship with John Wright. He did, however, spend time with A J Wright, a son of John Wright, and brother of Mr Wright, the Applicant. They remained friends until his death in 2016. Timothy was not aware of any rift between the families and John (as he knew him) never discussed any claim his



father might have had to the Land, nor did he mention any rent that might have been paid to his father.

32. I have also seen the statement of Mrs Constance Key, now 97 years old. She is aware that her late husband knew Mr Wright senior in a professional capacity, and was aware too that her late husband had purchased the Land over the years, initially with the help of his brother. She is clear that all the Land belonged to her husband, nor was he at any time in partnership with John Mr Wright.

### **Conclusion**

33. I agree entirely with Mr Pithers' submission that the Applicant's case does not get off first base. It is overwhelmingly clear that the Respondents have good paper title to all the Land.
34. There is no credible evidence to support the allegation that Mr Wright senior bought all or any part of the Land in 1953 or any time. There is no documentary evidence to this effect. The case rests on the recollection of Mr Wright who was a teenage boy at the time, and who only has the sketchiest details of what might have happened. It is trite to say that if the Land had been sold to John Wright, parts of it could not have been purchased by Mr Key from a number of different owners over the years.
35. Mr Wright can only make good his case by saying that the Conveyances have been altered or doctored in some ways. These Conveyances have at all times been held by solicitors. His case has been inconsistent over the years, not least regarding the extent of the Land claimed. The evidence of Mr Radley does not support the (serious) allegation that anyone tampered with or altered the text of the Conveyances or the plans. His conclusion was that these documents are authentic. In the light of all the evidence the suggestion that Mr Wright senior had bought all the Land in 1953 is simply fanciful and unsustainable.
36. I do not doubt that the Applicant and the wider family believe that all or part of the Land is rightfully theirs, and that this belief has grown over the years, and probably became more firmly held when Tesco showed some interest in purchasing the Land. But this belief is not grounded in fact and does not survive scrutiny. The application must therefore be dismissed.

Costs

37. The Respondents, as the successful parties, are in principle entitled to their costs since the date of the reference (24 January 2017). A schedule in Form N260 or the like is to be filed and served by 17 September 2018. The Applicant may respond within 14 days of receipt of the schedule.

**BY ORDER OF THE TRIBUNAL**  
*Ann McAllister*

**Dated this 3<sup>rd</sup> day of September 2018**

