

INTERVIEW

Extracts from an
interview
of
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*What a deed of
partition is*



*The 1829 Deed of
Partition*

boundary stones

*US Army built road in
WWII*

The 1829 Deed of Partition & Zimapan's Lay-by

Ian K. Nelson explains the dispute over *Zimapan's* lay-by

IKN I've got a letter from the trustees of the **Lords of the Manor of St Day**.

PKS How does that relate to *Zimapan*?

IKN This goes back to the Deed of Partition.

A deed of partition is basically when you have two owners of a piece of land and they divide it up between them. So way back in 1829 there was clearly some form of trust whereby land was held by more than one person. We don't know whether it was one, two, three or four persons or what it was. This Deed of Partition was a deed executed between the parties, whereby [ed. it was agreed that] you have this bit and I'll have that bit. Now as far as *Zimapan* is concerned, we're talking about this crossroads here, because there is the old tramroad.

PKS Yes, I see.

IKN And the tramroad is the road that comes in there. *Zimapan* is in that little crunch there. And that's the tramroad that goes to the east of it, 'cos there it is on the modern plan that goes with it. Right, there's north. Let's assume for a moment that it's drawn on a north-south axis; that's the trouble, I don't have a north point on this [ed. map], to centralise it. You see the tramway is this one coming in here and out there.

PKS Yes.

IKN And there's the road going off up the hill.

PKS Yes, I can see boundary stones here.

IKN Yep. Now this road - I don't know whether your enquiries have shown this - this road over here didn't exist until the Second World War.

PKS No, I didn't know that.

IKN The American Army put it in.

PKS Right, but there was a dirt track passing the house in 1928...

IKN Yes, there was, but it didn't actually carry on in the same direction, I don't think.

PKS Oh, right.

IKN I think that's where we got it, it's like this. There's the old tramway going through there.... in which case *Zimapan* is in there, in that bit there.

PKS Now the road - there was a dirt track coming out there - but the main road was put in, I'm told, by the American Army. Now the reason I wrote to the trustees of the Lords of the Manor of St Day is, that this old section of land marked '2' here...

PKS What I call the lay-by?

IKN That's right, yes ...is because the deed whereby Brian See bought this land shows that it included this lay-by.

PKS You mean the 1978 Conveyance?

IKN Yes. Here is an extract from the title owned/registered by the trustees of the St Day estate. There is *Zimapan*. And you will see they have registered ownership of that bit of lay-by.

PKS I see that, yes. Would that have occurred without consent or deed of transfer?

IKN Well, that is why I have raised the matter with their solicitors.

PKS I understand. I found exactly the same thing when I looked at the two (different) title plans.

IKN However, I've checked with the local authority and they have confirmed that the lay-by is **public highway**. Just because land is 'public highway', doesn't mean to say that somebody doesn't own the subsoil. If land is classed as a public highway, only the top of the land is public highway.

PKS You mean the part over which vehicles travel?

IKN Yes. Somebody is entitled to own the subsoil - the land underneath - notwithstanding the fact that it's a public highway. Now, this is the title plan of the Lords of the Manor of St Day. And if you look, you'll see that what they registered is virtually all roads - the **subsoil of roads**. Why they have done so, I have no idea. It's very rare for Land Registry to register owners of the subsoil.

PKS Might it have something to do with the minerals [ed. under the ground]?

IKN No. I think it's more to do with the possibility of claiming access rights, but I don't know. But this is the wider plan; the bit we're talking about is this little bit here. And that's why I photocopied it...this is an extract of that plan. Here we see a parish boundary running down the middle of the road. Now that parish boundary goes straight along the front wall of *Zimapan*, and in round that lay-by. This 1829 Deed of Partition shows that that the partition was based on that parish boundary. Therefore, this land to that side of the parish boundary...

PKS i.e. west of that left red line...

Brian See

Zimapan's lay-by is registered to the Lords of the Manor of St Day

1978 & 2008 title plans public highway

most of the registrations by the trustees are subsoils of roads

access rights

parish boundary

land owned by the
Williamsses

IKN ...is owned by the trustees of the Lords of the Manor of St Day. The land here was owned by the Williamsses.
PKS To summarise then: the whole of the road and the area to the right of the road belongs to the trustees of the Lords of the Manor of St Day. So, effectively, they have claimed the lay-by of *Zimapan*?

Zimapan goes back to
'Williams of
Scorrier'

IKN Yes, because of this Deed of Partition. Now, I wrote to them [ed. trustees] and said that we [ed. IKN and current owners of *Zimapan*] obtained title via **Williams of Scorrier** because *Zimapan* goes back to Williams of Scorrier.

PKS Was this 'Williams of Scorrier', William Williams [ed. 1st Baronet of Tregulow] or John Williams the 5th?

Williams of Scorrier
only had a 1/16th
interest in
MoSD

IKN I don't know. The trustees are now saying that Williams of Scorrier only had a 1/16th interest in the Manor of St Day and therefore did not have title to that lay-by, and therefore he couldn't have given us title.

PKS Do we know *when* this Williams of Scorrier had a 1/16th interest in the Manor of St Day?

IKN No, it [ed. the Deed of Partition] doesn't tell me.
Now, my argument was that we were going back to *Zimapan*, and the trustees were saying that Williams of Scorrier only had a 1/16th interest, so he couldn't have owned the lay-by. The Williamsses owned the mines. And *Zimapan*, remember, was a mining office.

Williams owned
Zimapan (the mining
office) and the mines,
but not the lay-by

So Williams - the mining factory - owned *Zimapan* and the mines, but they didn't own that lay-by because under the Deed of Partition, the lay-by was part of the Manor of St Day. And the Lords of the Manor of St Day and the Williamsses are different families.

PKS The question now is, why is it (this) significant to you?

IKN It isn't now.

PKS Why was it?

IKN Because, as you know, *Zimapan*'s gate come out into that lay-by. Now, if *Zimapan* is not attached directly to the public highway, you have to have a right to cross that intervening bit of land, which is actually why I think these people [ed. the trustees of the MoSD] registered all these bits of land. If they can prove that they own the piece of land between my client's [ed. Tony & Vicki Leigh] property and this road, the trustees could charge for a right of way to cross it.

owners (trustees)
could charge to cross
lay-by

PKS So, why aren't you interested in the lay-by issue any longer?

IKN The reason I lost interest in it is because I established that the lay-by is actually 'public highway'. If it's a public highway, the public have the right to cross and re-cross it.

access and money

easement

*Zimapan was a little
enclave into
Williamses' estate*

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- IKN You don't need anybody's permission. So 'our' gate, *Zimapan's* gate, actually does front onto the public highway. The fact that it's a lay-by is totally irrelevant; it is still deemed 'public highway'. So I don't need a right to cross it because it's a public right.
- PKS What can you tell me about the right to cross it?
- IKN Well, here's *Zimapan*. If we draw a line across there, that is the lay-by. If that lay-by was not public highway (lay-bys are normally public highway), my client [ed. the Leighs] would not have had the right to get in and out of *Zimapan* without getting that right from the trustees of the Manor of St Day. That was going to cost the client money.
- PKS Aahh! Now I understand what this is about.
- IKN It's about access and money. My client would have had to pay for that right of access.
- PKS Would that have been on a one-off basis?
- IKN My client would probably have bought the right (the easement), which would have cost several thousand pounds.
- PKS Did the public highways authority buy the lay-by from the trustees of the Lords of the Manor of St Day?
- IKN No, it was designated public highway some way back in history.
- PKS So a deal was done?
- IKN Yeah. The local authority often adopts roads. On every housing estate, they adopt roads.
- PKS But presumably the local authority would have done it with the permission of whoever owned the land?
- IKN Yeah, at the time. It could have been adopted compulsorily, or by usage - in all sorts of ways. So that's where the lay-by came into it, and hence my enquiries with the Manor of St Day. What it also told us was that *Zimapan* was a little enclave or pocket, owned by Williams of Scorrier, into the other estate. Cos generally, Williams owned this side [ed. the land to the left of Scorrier-to-St Day road].
- PKS You are indicating to the west of *Zimapan*.
- IKN Yes.
- PKS That's where *Tregullow House* and *Scorrier House* are.
- IKN That's right. And that's the Williams's land. This [ed. *Zimapan*] was a little mining office which actually went into the land belonging to the Manor of St Day. The boundary was that parish boundary that ran down the road.
