

Thorpe v Brumfitt [1873]

The case concerns the right of way over a road leased to a tenant.

Evidence

P and M were neighbors. P owned an inn, and the passage to the inn lay across M's land. When the parties decided to set new boundaries, they established another route. According to the new terms, M was granted the right to use the passageway as well as a small part of land at its farthest edge, with the understanding that P and his heirs would be allowed to use the path at any time. An old passage was re-leased, and the claimant became the new tenant of P's property. The respondents were M's tenants who rented a part of his property. They allowed their business-related vehicles to remain in the passage, which blocked access to the claimant's property.

Problematics

It was unclear whether the respondents could lawfully use the passage as their business required if it prohibited the claimants from using their property. In addition, it was important to determine whether the rights to the passage also belonged to the claimant.

Resolution

The court held that the claimants also had the right to use the road. Therefore, the respondents could not obstruct the way with carts and wagons when the co-owners needed to use the passageway as well.

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