

Wall v Collins [2007]

Evidence

The claimer stated that he has the right to use the track that partly lied on his property and partly on the appellee's property. The appellee said that this right was active in the past, but the changes in the form of property the claimer had has affected his right of way. According to the principle of union of lease and freehold statuses, some benefits might be abandoned. The court proclaimed that the principle mentioned should be taken into consideration, which became a reason for changes in the claimer's rights and an extinguishment of his benefits regarding the right of way.

Problematics

The court's decision was appealed and the problematics consisted of whether the claimer should lose his right of way because of the change of the property's status from lease to freehold.

Resolution

The court of appeal held that the court of the lower category was wrong as the change of the interest from lease to freehold does not necessarily mean the extinguishing of benefits of the previous lower property's status that was granted to its holder. The claimant still had the right of way and could use this benefit of the previous lease status during his new freehold status.

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