

Wollerton and Wilson Ltd v Richard Costain Ltd [1970]

Evidence

Richard Costain Ltd was a construction company involved in a project that foreseen the use of a crane. When the crane was adjusted in the only place possible, it turned out that the jib of the crane trespassed over the property of the applicant: both when the crane was used and when it wasn't. The jib went 50 feet above the applicant's house and the applicant agreed that there was no harm or risk of harm in it. The defendant agreed with the fact of trespassing and offered a considerable sum of money as a way to negotiate the claim. The applicant refused the proposal and started a court procedure to get a temporary injunction that would prevent the trespassing.

Problematics

The main question was if the court injunction to prevent trespassing could be used if the defendant did no harm and evoked no risk of harm.

Resolution

It was stated that in circumstances with no harm done, the only mean of legal remedy the applicant can have is an injunction that should be provided as an answer to the fact of trespassing.

However, because of the character of the claim and the circumstances, the Court can stop the temporary injunction implementation. The result of all these facts was that the legal injunction was delayed for the period that would allow the defendant to finish its work that foreseen the use of the crane.