IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[1999] SGHC 320

Suit 2098/1998

Between

Xpress Print Pte Ltd

… *Plaintiff*

And

Monocrafts Pte Ltd
L & B Engineering (S) Pte Ltd

… *Defendant*

GROUNDS OF DECISION

Version No 1: 29 Oct 2026 (23:45 hrs)

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Xpress Print Pte Ltd v Monocrafts Pte Ltd and Another

[1999] SGHC 320

Suit 2098/1998
Choo Han Teck JC
15 December 1999

1 **JUDGMENT:**

2 **GROUNDS OF DECISION**

3 1. The facts in this case are not in dispute. This action was commenced by the plaintiffs who are the owners of a light industrial building adjoining the first defendants' land at Kallang Way. Construction of the plaintiffs' building was completed in 1996. Sometime in 1997 the first defendants decided to construct a light industrial building on their land and employed the second defendants as independent contractors to carry out the construction. It was not disputed that the second defendants were at all material times an independent contractor of the first defendants, and they, not the first defendants, were the occupiers of the first defendants land at all material times. The second defendants erected a temporary wall between the plaintiffs' land and the first defendants' land, and thereafter began excavating the first defendants' land. On 10 March 1997 the plaintiffs discovered some damage to their building caused by the movement of soil. The damage included cracks to the driveway and the breaking of water pipes beneath it. There was no allegation that the first

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defendants failed in their duty in selecting a reasonable contractor. Thus, no negligence was alleged nor could be sustained on this count.

4 2. The second defendants were wound up before the trial and the plaintiffs obtained a default judgment against them for failing to comply with various "unless orders" of the Registrar. Mr Rai appears for the first defendants. He does not challenge the liability of the second defendants. He also admits that some damage had been caused to the plaintiffs' building as a result of the second defendants' negligence in failing to secure a proper retaining wall before and during the excavation work. He reserves his case as to the extent of the plaintiffs' damage should judgment be ordered against his clients for damages to be assessed. For the purposes of determining the question of liability he accepts that there were some damage. However, he submits that on the undisputed facts, there is no liability on the part of the first defendants in respect of the plaintiffs' claim. The plaintiffs' action against the first defendants (as pleaded in their Amended Statement of Claim) is founded on negligence, wrongful interference of support and nuisance. No particulars of negligence were pleaded and no submission on this claim was made in the final submissions of the plaintiffs' counsel. The plaintiffs' counsel made submissions on two claims namely, the withdrawal of support and nuisance.

5 3. The main thrust of the plaintiffs' case lay in the claim based on the wrongful interference with the right of support. However, the law is abundantly clear on this point. The right of support extends only to what is naturally on the land. The only exception, which does not apply in this case, is based on the right equivalent to an easement, that is, an acquired right of support by long usage and reliance. In this case, it is an undisputed fact that the plaintiffs' building was constructed only a year previously. The contrasting rights of adjacent land-owners namely, the right to do as one pleases on his own land is limited by the

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right against wrongful interference of support. The plaintiffs have as much right to construct and maintain a building on their on land as the first defendants have to excavate theirs. So long as the excavation is carried out without negligence on the part of the first defendants whether directly or vicariously, and no wrongful act of nuisance was committed by them, they cannot be held responsible for the damage to the plaintiffs' building only by reason of the expectation of a right of support. That right creates a no-fault liability. Thus, it is restricted to apply only to the support of the natural ground and not to objects constructed thereon. The protection of those objects in law will lie only in negligence, nuisance or the rule in *Rylands v Fletcher*, none of which assist the plaintiffs as can be gleaned from the sparse pleadings of the plaintiffs. Reverting to their case based on the right of support, the law may be summed up in this robust pronouncement of Lord Penzance in *Dalton v Angus L.R.2 C.P.D. 572, at 804*:

> "It is the law I believe I may say without question, that at any time within 20 years after the house is built the owner of the adjacent soil may with perfect legality dig that soil away and allow his neighbour's house, if supported by it, to fall in ruins to the ground."

6 This statement was adopted by Cox C.J. in the Court of Appeal in *Lee Quee Siew v Lim Hock Siew[1896] SSLR 80, at 90*.

7 4. So far as the claim in nuisance is concerned, there was no evidence to show that the first defendants were liable on account of damage arising from an unavoidable nuisance. In fact, the evidence as adduced and agreed shows that the damage could have been averted by proper strutting. No liability, therefore, can be founded against the first defendants on this ground either.

8 5. In the circumstances, the plaintiffs' claims against the first defendants cannot be sustained and were accordingly dismissed.

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9 - Sgd -

10 Choo Han Teck

11 Judicial Commissioner

Choo Han Teck JC

Bevin Netto and Cheong Kok Fu [Cheong & Cheong] for the plaintiffs
M P Rai [Cooma & Rai] for the defendants

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