

Concept of trespass

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Concept of trespass



- Any unjustifiable intrusion by one person upon land in the possession of another.
- *“If the defendant places a part of his foot on the plaintiff’s land unlawfully, it is in law as much a trespass as if he had walked half a mile on it”* (Ellis v Loftus Iron Co (1874) L.R. 10 C. & P. 10)
- EXAMPLES
 - Removal of any part of the land
 - Placing anything on another’s land
 - Acting in excess of a right
 - Air space?



Concept of trespass



- If entry is voluntary then no defence based on mistake
- Trespass v nuisance
 - Nuisance: prove damage & consequential infringement
 - Trespass: direct & actionable without proof of damage
- Who can sue?
 - Person in possession
 - Proof of ownership is prima facie proof of possession



Concept of trespass



- Entry is not a trespass if justifiable
 - Licence by law/necessity
 - Right of way
 - Bare licence
 - Licence coupled with interest
- Damages?

