AILET

Legal Aptitude for CLAT: Law of Torts: Trespass

Aditya Anand · 08 Jun 2019

Trespass or an unlawful intrusion is a part of tort law.

Types of Trespass

- Trespass to land: Trespass to land means interference with the possession of land without any reasonable and lawful justification. If a person enters property under some authority and after making an entry, abuses that authority by committing a wrongful act, trespasses ab initio or from the very beginning to that property. Eg: B allows his cattle to graze on A's grounds. B can be charged with trespass to land.
- Trespass to goods: Any direct physical interference with the plaintiff's possession of goods, without any reasonable or lawful justification will amount to trespass to goods. It is actionable per se, without giving proof of damage. Eg: A shot B's dog because the constant barking of the dog annoyed B, B can be charged with trespass to goods.

License

If someone enters the premises with a license on the authority of the possessor of the land, then such a person cannot be held liable for trespass to land.

Remedies available

- Re-entry with reasonable force: A person can use a reasonable amount of force to get his/her property vacated by the trespasser and gain re-entry to the land. Eg: When a notice of ejectment is served to the person living on the property and he does not comply with the same, the property can be vacated through the use of reasonable force.
- Ejectment: Any person who has been dispossessed of his land can regain the same by filing a suit for ejectment. Eg: If a trespasser has gained possession of the property on the absence of the real possessor then he can be evicted by such land by filing a suit ejectment.
- Action for mesne profits: A person who has been dispossessed of his land can claim compensation for the damage and loss suffered by him. The action to gain such compensation

is known as Mesne profits. Eg: In the above example, the original possessor of the property can also file a suit for Mesne Profits.

- Distress damage feasant: It authorizes the original occupier of the land to seize the cattle or other chattels until compensation has been paid to him. The object so seized should be wrongfully present on the possessor's land. Eg: The occupier of the land can detain a dog that had trespassed his land until compensation is paid to him.