REMEDIES FOR INTERFERENCE WITH A RIGHT TO LIGHT

Scott –v- Aimiuwu (18/2/2015) is the first known Court Decision on a rights of light claim since the Judgment of the Supreme Court in Coventry –v- Lawrence (2014) - in which the basis upon which injunctive relief should be granted, and damages awarded, was reviewed and revised.

It is a Decision that will give some comfort to developers.

The Judge is Edward Cole of Falcon Chambers- acting as a Recorder in the Central London County Court.

Mr and Mrs Aimiuwu live in Potters Bar and built a substantial rear extension during 2012/3 which interfered with the light to 4 windows in the flank wall of Mr and Mrs Scott’s house next door. They had proceeded with the works notwithstanding the objections of Mr and Mrs Scott.

Mr and Mrs Scott sought an injunction at trial requiring the Aimiuwus to cut back their extension by some 92 square meters. They had not sought any urgent injunction to prevent the works proceeding.

The Court refused to grant an injunction and awarded damages of £31,499 instead.

The Court's reasoning was that:-

1. An injunction requiring demolition works to a house would be oppressive and punitive.

2. The interference in light, whilst actionable, was only to secondary accommodation i.e. a garage/workshop and utility room and bathroom. It could be adequately compensated by an award of damages. Matters would be different if interference was to a living room and bedroom.

3. The Aimiuwus had misleadingly thought they were entitled to proceed as they had planning permission and expert advice that the interference was not material.

4. There is no hard and fast rule of law that every room has to enjoy 50% of light. This is just a rule of thumb. It could be less or more, depending on all the circumstances.
5. Damages should be compensatory or remedial. In this case, they should not be based on a share of profits but on what reasonable parties would have negotiated to settle the matter at an early stage. The book value of the loss was about £12,000 calculated in the conventional manner but the Court applied a 2.5 multiplier so as to award £30,000 plus a further £1,499 for the temporary interference suffered whilst the extensive scaffolding was erected.

Conclusion

Whilst developers should still take care to act reasonably, provided they have expert advice that the interference is relatively small, and it is not to primary residential accommodation, they should now feel somewhat more confident about not being held to ransom by adjoining owners and not having to share all their profits with them. On the other hand, adjoining owners may now have to take urgent injunction proceedings if they don't consider damages would be an adequate remedy (or to seek to maximise any compensation that can be negotiated).

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