Davies (Respondent) v Bridgend County Borough Council (Appellant)

Case ID: UKSC 2023/0028

Case summary

Issues

Were the lower courts correct to decide that loss suffered by the Respondent, in the form of diminution in value of the Respondent's property as a result of the encroachment of Japanese knotweed from the Appellant's land, was caused by the Appellant's breach of duty in failing to treat the knotweed, in circumstances where the encroachment first arose before the Appellant's breach?

Facts

Japanese knotweed grew on the Appellant's land. It encroached onto adjacent property at 10 Dinam Street in Nant-y-moel, Bridgend. In 2004, the Respondent bought the property. In 2012, a Royal Institute of Chartered Surveyors report on knotweed was published, describing difficulties it can cause. The Appellant had actual notice of the presence of knotweed on its land, in relative proximity to the adjacent property, in 2014. It did not take steps to treat it until 2018. The Respondent first became aware that knotweed could pose a problem for any sale of their property in 2017. He sued the Appellant for damages in nuisance. The District Judge found that: (i) it was very probable encroachment had occurred in 2004, if not before; (ii) the Appellant had constructive knowledge of Japanese knotweed based on information available at the time in 2012/13; and (iii) the Appellant was in breach of its duty to the Respondent, thereby committing a private nuisance, from 2013 until 2018. The Respondent's claim failed before the District Judge and Circuit Judge but succeeded on appeal to the Court of Appeal. The Appellant now appeals to the Supreme Court.

Judgment appealed

[2023] EWCA Civ 80

Parties

Appellant(s)

Bridgend County Borough Council

Respondent(s)

Marc Christopher Davies

Appeal

Justices

Lord Reed, Lord Lloyd-Jones, Lord Burrows, Lord Stephens, Lady Simler

Hearing start date

27 February 2024

Hearing finish date

27 February 2024

Watch hearing

27 February 2024 [Morning session](#) [Afternoon session](#)