

NECESSITY WILL JUSTIFY ENTRIES UPON LAND AND INTERFERENCES WITH PERSONAL PROPERTY THAT WOULD OTHERWISE HAVE BEEN TRESPASS.

Fact Pattern:

Defendant owned a dock on an island in Lake Champlain. Plaintiff was sailing on the lake with his wife and two children when he was confronted with a sudden and violent storm placing his boat and the lives of those on the boat in great danger. Plaintiff sought to save his family and his boat from destruction by mooring it to defendant's dock. Defendant's Caretaker unmoored the boat, which caused it to be driven into the shore and destroyed, and plaintiff's wife and children to suffer injuries.

Question:

Was plaintiff's entry onto defendant's private property permitted by the doctrine of necessity? Will Defendant's Caretaker be liable for injuries to the wife and children? Will Defendant be liable for the act of Caretaker?

Rule

Necessity justifies the entry upon the land of another. The doctrine of necessity applies with special force to the preservation of human life. One assaulted and battered by a dangerous assailant and in peril of his life may run through the property of another to escape from his assailant. One may sacrifice the personal property of another to save his life or the lives of others.

Discussion

The doctrine of necessity applies with special force to the preservation of human life. One may sacrifice the personal property of another to save his life or the lives of his fellows. In this case, there is a necessity to preserve human life. Of special note: the one acting under the private privilege must reimburse the true owner for the cost of repairing any damage that he has caused.

Was Plaintiff's entry onto defendant's private property permitted by the doctrine of necessity?

Yes. Plaintiff will not be liable for trespass but only liable for any damage to the dock that results from the trespass that was 'privileged'.

California / Texas / Florida

Will Defendant's Caretaker be liable for injuries to the wife and children?

Yes, if his actions were negligent.

Will Defendant be liable for the act of Caretaker?

Yes, if Caretaker's actions were negligent and those actions were within his scope of employment.

Every orthopedic surgeon, emergency room physician, or neurosurgeon understands that bad things happen by intent of bad people or just really bad luck:

Ex: Old man is getting chased by gang members and runs away jumping over a fence for safety, only to find a Pit Bull with sharp teeth who does permanent damage resulting in loss of function to right hand.

Old man trespassed but his actions were 'privileged' and would not be liable for trespass because he feared his life. Dog owner may be liable based on Strict Liability if the jurisdiction has a 'Pit Bull Rule' which might apply strict Liability for any dog bite or liable because of negligence for not having signage warning of the dangerous dog.