

front of the house, the result of which will be to make the house unsightly, and to cut off the light from the downstairs front part of it.

The defendants said that, before the lease was made, the plaintiff had been for two months a monthly tenant of the premises, and that when the place was first rented to her the defendants would not rent to her the vacant ground in front of the house because they intended to build upon it a store or restaurant; that the lease was given subject to the defendants' right to build upon the vacant lot in front of the house; that they entered upon the vacant part of the lot and began to make the excavation complained of on the 28th November, and no complaint was made by the plaintiff until the 12th December following; and that they had not interfered with the tenancy of the plaintiff any more than what was agreed to previous to the time of the renting of the premises.

The lease was an informal document, reading: "Nov. 14, 1919. Mrs. Daugherty in account with M. D. Armaly. I rent the house No. 51 Sandwich street, Ford City, for one year at \$55 per month payable in advance of each 14th the month. M. D. Armaly."

The learned trial Judge found that when the house was first rented by the plaintiff she understood from the defendant Armaly that it was his intention to put up a restaurant in front of the house. He also found that it was known to the plaintiff and was a condition of the lease which she afterwards obtained from Armaly that the restaurant building would be erected in front of the building which she rented from Armaly.

The trial Judge treated the arrangement as to the erection of the restaurant as a collateral agreement, and held that the proof of it was therefore not in violation of the rule which forbids the proof by parol of anything which varies a written instrument. He held, however, that, although the right to erect the restaurant involved the taking down of the porch, and the plaintiff could not therefore complain of the removal of it, the defendants in doing this work had removed a part of the basement wall of the house, which caused the cold air to enter, with the result that it became difficult to heat the house, and the pipes leading from a heater in the furnace to the bath-room were frozen and burst, causing some flooding in the cellar; and, having reached the conclusion that these acts were wrongful, he assessed the plaintiff's damages at \$300.

It was open to serious doubt whether, assuming that the defendants had the right to build in front of the house, they had any right to interfere with the foundation-wall of the house; but, granting that they had, they had no right to leave the opening which was left, but should have provided means to have prevented the cold