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FALCONBRIDGE, C.J.

JANUARY 25TH, 1909.

TRIAL.

AYERHART v. WEINSTEIN.

Trespass—Injury to Building—Damages—Injunction.

Action for damages for injury to plaintiff's house by raising an adjoining building.

A. F. Lobb and J. Nason, for plaintiff.

L. F. Heyd, K.C., for defendant.

FALCONBRIDGE, C.J.:—The defendant made a contract with one Litowitz to raise the extension of 118 Montrose avenue for a definite sum. It appears from the evidence of Mr. Galley, an independent inspector and witness, whose name was suggested by plaintiff's counsel, that some trifling injury may have been caused to plaintiff's building, not by the pushing or intrusion of defendant's building, but by the joint action of the use by Litowitz of the jack-screw and by the excavation done by plaintiff himself under his own building.

It is clear that plaintiff has no right of action against this defendant. It would have availed him very little if he had established such right, for the damages would not amount to \$20, and there would have been no certificate assisting plaintiff in the matter of costs. There is no intrusion, pressure, or impact of defendant's house against plaintiff's house which would entitle the plaintiff to an injunction. The action is therefore dismissed with costs.

I give 10 days' stay, not to facilitate an appeal, but to enable plaintiff to prepare to pay up.