

"Considering that making use of a wall does not necessarily imply putting beams in it, or resting on it, any construction in whole or in part, but use is also made in the ordinary and obvious meaning of this word, when, by resorting to devices, things are arranged in such a way, by the owner of a lot adjoining a gable wall, that all the benefit that a wall can naturally confer is obtained for a building, and that the construction of a proper wall is dispensed with;

"Considering that the defendant, on the South side of his property, has, in reality, no wall, and that his partition, made of terra cotta which is covered at the top by pieces of galvanized iron nailed in plaintiffs' wall to prevent the water and rain from getting in it, forms really only one wall with the plaintiff's wall;

"Considering that by arrangement made by the defendant to make use of the plaintiffs' wall and have the benefit of it without paying for, the defendant has enriched himself unjustly at plaintiffs' expense:

"Doth reject the plea, maintain the action, and condemn the defendant to pay to plaintiffs the sum of \$4,165.50; and that, in default of paying the said sum within fifteen days from the judgment, defendant is ordered to remove his building from plaintiffs' wall, the whole with interest on said sum and costs."

The Court of Appeal reversed this judgment and dismissed the action with costs.

*Laverne, J.* — "The proof showed that appellant had built on its own land and the building had four walls quite distinct from the respondents'. The wall adjoining respondents' does not rest upon their wall and does not penetrate it. This adjoining wall of the appellant's building is of terra cotta and is supported on iron or steel pillars and beams and is self-supporting. The exterior of this