

tions: (a) in that the buildings of the defendant being erected were two, and that one of these buildings, viz., the western one, has not appurtenant to it land having a frontage on Palmerston avenue of at least 33 feet; and (b) that this building, not being a stable or outbuilding, being upon the lot which has a frontage upon Harbord street, as well as upon Palmerston avenue, has not its front upon Palmerston avenue. And by that judgment the defendant was restrained from proceeding with the erection of the said buildings unless and until the said buildings are altered so as to conform with the said building restrictions.

The defendant apparently accepted the decision, and proceeded at once to alter the so-called buildings to make them conform with the restrictions.

The objections, in short, are that there are two buildings; and, if so, the western one does not conform to the restrictions; and that, even if only one building, it does not front upon Palmerston avenue, within the true meaning of and as required by the restrictions.

The fact of there being two buildings, as found by the trial Judge, was so found as then there was the "vertical division wall, running north and south, extending the whole height of the building, dividing it into two equal divisions. . . . There is no door or other opening in this division wall, so that there is no means of access to and from the easterly and westerly halves of the building; each half has its independent entrance facing upon Harbord street." That is now changed. There is a door-way through the vertical wall. It was made in good faith as a permanent door-way or passage-way, to be finished and through a middle wall—called a "fire-wall"—a fire-wall required by the city corporation—and in a building with the four enclosing walls all under one roof, I am not able to say that this building is two buildings within the meaning of the restriction; and, if not, there is no violation of the injunction in that respect.

[Reference to Ilford Park Estates Limited v. Jacobs, [1903] 2 Ch. 522, 526.]

Then, upon the best consideration I can give to the plans and to the affidavit evidence before me, I am of opinion that this building will have its front upon Palmerston avenue. It will not be as convenient or as imposing a front as perhaps should belong to so large and costly a building; but that is a matter between the defendant as owner and her tenants.