DOWNLOAD PDF THE RULE IN RYLANDS V FLETCHER AND FIRE

Chapter 1 : Neighbour not liable under rule in Rylands v Fletcher for damage caused by accidental fire

Under the rule in Rylands, it is the 'thing' brought onto the defendant's land 'which must escape, not the fire which was started or increased by the "thing"'.

Wyvern Tyres The defendant, Mr Stannard, operated his tyre fitting and supply business, known as Wyvern Tyres, from a trading estate in Hereford. The claimant occupied an adjoining unit. It was held that the tyres had a special fire risk quality, although they were not in themselves flammable, and would not ignite unless there was a sufficient flame or heat source. Once alight, they burn rapidly and intensively, such that they are difficult to put out. Further, the tyres were stored in a haphazard manner and in a large quantity for the size of the premises. These factors brought the case within the rule in Rylands v Fletcher. The storage of tyres presented an exceptionally high risk of danger and was a non-natural use of land. On appeal The single issue on appeal was whether the rule in Rylands v Fletcher had been correctly identified and applied. There were, however, significant differences of approach between the three Lord Justices. The fire fuelled by the tyres had escaped, but the defendant had not brought the fire onto his land. In these circumstances a claim based on Rylands v Fletcher must fail. In any event, the tyres were not exceptionally dangerous or mischievous. The minority view â€" Lewison LJ Lewison LJ agreed that the appeal should be allowed, but would have gone further in limiting the scope of strict liability for the escape of fire. Lewison LJ considered that Musgrove was unsound authority and should no longer be followed. Ward LJ expressed no concluded view on this aspect of the case, but hinted that, if pressed, he might conclude that those parts of the judgment in Musgrove relating to Rylands v Fletcher were obiter. Musgrove v Pandelis Leaving to one side the question of section 86 of the Act, Musgrove was subject to criticism on another point: In Musgrove, the defendant kept a car in his garage. The defendant was held liable for the negligence of his servant, who could have prevented the development and spread of the fire. A hundred years later, a motor car is no longer such a novel or dangerous thing. This aspect of Musgrove is readily understood, but the more challenging aspect is in the analysis of the strict liability rule that was applied. A special rule for fire: The criterion of escape was evidently missing from the facts of both Mason and Musgrove. The judge rationalised his decision by modifying Rylands v Fletcher to support it: In the words of Etherton LJ: Mason or otherwise eg. Is this not a relic of the ignis suus rule? In particular, it is clear from the above passage that it will now be very difficult for claimants to succeed in such cases without proof of negligence. The three detailed judgments touch upon a number of other interesting and challenging issues that are beyond the scope of this article, for instance: The position in respect of cases involving explosions where the requirement of escape may also be missing. Whether there is a separate cause of action in nuisance for escape of fire. Consideration of these points will have to await another occasion. Leave a Reply Your email address will not be published.

Chapter 2 : Rylands v. Fletcher, the Rule in Definition

Rylands v Fletcher [] UKHL 1 was a decision by the House of Lords which established a new area of English tort calendrierdelascience.coms employed contractors to build a reservoir, playing no active role in its construction.

Berrymans Lace Mawer partner Warren King examines the detail of the recent case and how the application of Rylands v Fletcher has been reviewed. Background facts The background facts were not uncommon: A fire started within the unit, probably electrical in nature, and rapidly spread with great intensity throughout. At first instance the claim for negligence was dismissed on the basis that there was no evidence of culpability on the part of the defendant, in the manner in which it maintained the electrics or stored the tyres. It was also stated that in this case, it was not unreasonable for the defendant not to have installed an alarm or sprinklers. On appeal The defendant appealed this decision and argued that the judge had erred in his application of the test for strict liability under the rule in Rylands v Fletcher. The following test was approved: The defendant must be the owner or occupier of land. He must bring or keep or collect an exceptionally dangerous or mischievous thing on his land. He must have recognised or ought reasonably to have recognised, judged by the standards appropriate at the relevant place and time, that there is an exceptionally high risk of danger or mischief if that thing should escape, however unlikely an escape may have been thought to be. His use of the land must, having regard to all the circumstances of time and place, be extraordinary and unusual. The thing must escape from his property into or onto the property of another. Damages for death and personal injury are not recoverable. On the facts of this case it was held that tyres were not exceptionally dangerous or mischievous in themselves and there was no evidence that the defendant ought to have recognised an exceptionally high risk if the tyres escaped, the tyres did not escape and in any event the keeping of tyres was not a non-natural use of the land in these circumstances. As a result the appeal was allowed. It is hard to escape the conclusion that the intellectual effort devoted to the rule by judges and writers over many years has brought forth a mouse. In such cases a claimant will now need to establish a claim in negligence or nuisance in order to succeed. The moral of the story is taken from the speech of Lord Hoffman: The full judgment can be read here. This document does not present a complete or comprehensive statement of the law, nor does it constitute legal advice. It is intended only to highlight issues that may be of interest to customers of BLM. Specialist legal advice should always be sought in any particular case.

Chapter 3 : The Rule in Rylands v Fletcher and relevant cases Cases | Digestible Notes

Basic summaries and coherent overviews of the rule in Rylands v Fletcher and similar cases in tort law.

However, actual damage must be proved; it is not a tort that is actionable per se. Rylands employed independent contractors to build the reservoir. After completion, water burst and flooded into Fletchers land, a neighbouring land, which had operated mines. Fletcher argued the enjoyment of his land had been invaded and Rylands should be liable for the damages caused by inherently dangerous activities. Rylands argued that he was acting reasonably and lawfully on his land and should not be held responsible for an accident which resulted without any negligence. The case went from the court of Liverpool way up to the House of lords where the case developed a strict liability principle. The case then established a landmark principle which it has become important principle applied by judges and relevant in many cases both in common law and in Tanzania. It is the notable statement by Blackburn J [2] which gave the grounds of it applicability. The applicability of the principle in Ryland v Fletcher will be in the following circumstances. Accumulation is of the important condition of the applicability of the rule in Ryland v fletcher. Some rocks fell onto the land below and injured the plaintiff. The court found that although the rocks were not purposely collected or kept on the land, the explosives were purposely collected and kept. It was held that the defendant was liable due to his deliberate accumulation which caused the escape of the rocks, and because the way in which the injury was sustained was through rock- blasting, which was not a natural use of land. The applicability of the rule also depends on the things accumulated, they must be likely to cause mischief dangerous if they escape. The ground floor was sublet to the defendant who was in the business of repairing and disturbing tyres. The defendant stored petrol for business purpose. It was held that the defendant was liable under the rule in Rylands v Fletcher as the petrol was a dangerous thing. Lastly there must be an escape for the rule to be applicable. The appellant gave the respondent permission to use part of his land. Despite the situations which the rule have been applied, the courts in various situation have found it relevant to situations that where not particularly similar to those exactly in the case of Ryland v Fletcher.

Chapter 4 : Rylands v Fletcher

Under the rule in Rylands calendrierdelascience.comer, a person who allows a dangerous element on their land which, if it escapes and damages a neighbour, is liable on a strict liability basis - it is not necessary to prove negligence on the part of the landowner from which has escaped the dangerous substance.

Facts[edit] In , Rylands paid contractors to build a reservoir on his land, intending that it should supply the Ainsworth Mill with water. Rylands played no active role in the construction, instead contracting out to a competent engineer. At this point a mines inspector was brought in, and the sunken coal shafts were discovered. Rylands, however, had no way of knowing about the mine shafts and so was not. Exchequer of Pleas[edit] The case then went to the Exchequer of Pleas, where it was heard between 3 and 5 May Pollock CB and Martin B held that the defendants were not liable, as since a negligence claim could not be brought there was no valid case. Bramwell B , dissenting, argued that the claimant had the right to enjoy his land free of interference from water, and that as a result the defendant was guilty of trespass and the commissioning of a nuisance. The prior decision was overturned in his favour. Blackburn J spoke on behalf of all the judges and said that: We think that the true rule of law is, that the person who for his own purposes brings on his land and collects and keeps there anything likely to do mischief if it escapes, must keep it at his peril, and, if he does not do so, is prima facie answerable for all the damage which is the natural consequence of its escape. The general rule, as above stated, seems on principle just. But for his act in bringing it there no mischief could have accrued, and it seems but just that he should at his peril keep it there, so that no mischief may accrue, or answer for the natural and anticipated consequence. And upon authority this we think is established to be the law, whether the things so brought be beasts, or water, or filth, or stenches. House of Lords[edit] The House of Lords dismissed the appeal and agreed with the determination for Fletcher. The case was then heard by the House of Lords on 6 and 7 July , with a judgment delivered on 17 July. The Defendants, treating them as the owners or occupiers of the close on which the reservoir was constructed, might lawfully have used that close for any purpose for which it might in the ordinary course of the enjoyment of land be used; and if, in what I may term the natural user of that land, there had been any accumulation of water, either on the surface or underground, and if, by the operation of the laws of nature, that accumulation of water had passed off into the close occupied by the Plaintiff, the Plaintiff could not have complained that that result had taken place. If he had desired to guard himself against it, it would have lain upon him to have done so, by leaving, or by interposing, some barrier between his close and the close of the Defendants in order to have prevented that operation of the laws of nature On the other hand if the Defendants, not stopping at the natural use of their close, had desired to use it for any purpose which I may term a non-natural use, for the purpose of introducing into the close that which in its natural condition was not in or upon it, for the purpose of introducing water either above or below ground in quantities and in a manner not the result of any work or operation on or under the land, - and if in consequence of their doing so, or in consequence of any imperfection in the mode of their doing so, the water came to escape and to pass off into the close of the Plaintiff, then it appears to me that that which the Defendants were doing they were doing at their own peril; and, if in the course of their doing it, the evil arose to which I have referred, the evil, namely, of the escape of the water and its passing away to the close of the Plaintiff and injuring the Plaintiff, then for the consequence of that, in my opinion, the Defendants would be liable. As the case of Smith v. Kenrick is an illustration of the first principle to which I have referred, so also the second principle to which I have referred is well illustrated by another case in the same Court, the case of Baird v Williamson , [24] which was also cited in the argument at the Bar. This foundation stone is a recurring theme in the common law throughout the ages, to wit: Trespass was considered a remedy for all tortious wrongs, and sometimes used as a synonym for torts generally. The case had almost identical facts to Rylands, but strict liability was never even considered. The case is instead thought of as one of the best attempts of early 19th century English judges to build up the law of negligence. The decision won support for bringing the law relating to private reservoirs up to standard with the law relating to public reservoirs, which contained similar statutory provisions thanks to a pair of private Acts of Parliament passed in and The

American interpretation was based primarily on the idea that it would cause economic harm. Firstly, they argue, it is not trespass , since the damage is not direct, and secondly, it is not a nuisance , because there is no continuous action. This is for two reasons; firstly, it is a case of very limited applicability, and it has been suggested that it be folded into a general principle of strict liability for "ultra-hazardous" activities. However it is difficult to adjudicate on this Bill, [39] especially as the provinces have priority over property rights. A difficulty is encountered with the definition of "property", as remarked by Johansen, [40] which may well be the reason why the matter remains for interpretation by precedent. Lavell , provided an impetus for the Charter of Rights , which specifically excludes the "enjoyment of property" for reasons described in the Constitutional history of Canada page. Fridman on Torts in Canada has helpful material. A subsequent Ontario Court of Appeal ruling in found that the plaintiff had not provided sufficient evidence of economic harm, raising the legal burden of proof but not invalidating Rylands as precedent law. In April , the Supreme Court of Canada chose not to hear the appeal. Even municipalities cannot exclude miners. The rule in Rylands v Fletcher gives support to Ernst v. Statutory provisions, such as the Environmental Protection Act , were a more modern and appropriate way of addressing environmental problems which would previously have been covered by Rylands. Subsequently, Transco disapproved of the Australian decision in Burnie Port Authority v General Jones Pty Ltd to absorb Rylands into the general law of negligence , [61] deciding that Rylands should continue to exist but, as Lord Bingham said, as a "sub-species of nuisance Private nuisance requires the claimant to have an interest in land, while Rylands does not; although exceptions to this rule have occasionally been made in private nuisance, in Hunter v Canary Wharf Ltd , [64] the House of Lords ruled that to make exceptions would transform nuisance from a tort against land to a tort against the person, and should not be permitted. In Rylands, this was the keeping of water in a reservoir; other cases in England and Wales have illustrated what sort of material is considered. Before Transco plc v Stockport Metropolitan Borough Council this did not have to be a dangerous item see below ; the risk was instead in its behaviour if it escapes. In Rylands the "thing" was water. It is essential for a Rylands claim that there be an escape of a dangerous thing "from a place where the defendant has occupation of or control over land to a place which is outside his occupation or control". Rylands was held not to apply, because there was no escape. The dangerous thing that escapes does not always have to be the thing which was accumulated, but there must be a causal link. It must be shown that the defendant has done something which he recognised, or judged by the standards appropriate at the relevant place and time, he ought reasonably to have recognised, as giving rise to an exceptionally high risk of danger or mischief if there should be an escape, however unlikely an escape may have been thought to be. Because the idea of something being "non-natural" is a subjective one, the interpretation of this principle has varied over the years. In Musgrove v Pandelis , a car filled with petrol was considered "non-natural", while in Rainham Chemical Works Ltd v Belvedere Fish Guano Co Ltd , [56] so was the operation of a munitions factory during war-time. I also doubt whether a test of reasonable user is helpful, since a user may well be quite out of the ordinary but not unreasonable" An act of an unknown third party will absolve the defendant of liability, as in Perry v Kendricks Transport Ltd. As Rylands requires strict liability , any contributory negligence voids most of the claim. Initially it was sufficient to offset the case itself; with the Law Reform Contributory Negligence Act , courts instead apportion damages, taking into account how much of the harm was contributed by the claimant. Nevertheless, contributory negligence is still a viable partial defence to a Rylands claim. While the rule is interpreted in England and Wales as being distinct from negligence and the rules of duty of care and liability applied there, the principle in Scotland was that "negligence is still the ground of liability. The only difference is that in such cases the proprietor is doing something upon his property which is in its nature dangerous and not necessary or usual? Nye , [91] by the Supreme Judicial Court of Massachusetts. The Supreme Court of Minnesota also adopted it in Cahill v. Buchanan , [93] Brown v. Collins , [94] and Marshall v. The pre-requirements essential for establishing a liability under the principle of strict liability viz. Union of India afford ample opportunity to the commercial enterprises to escape liability. Union of India evolved a more stringent rule of strict liability than the Rylands v. In this case, which involved the leakage of and the harm caused by Oleum gas from one of the units of Shriram industries in Delhi, the court held that keeping in mind the needs and demands of a modern society with highly advanced scientific

knowledge and technology where for the sake of development programme, it was necessary to carry out inherently dangerous or hazardous industry, a new rule had to be laid down to adequately deal with the problems arising in a highly industrialised economy. This new rule had to be based on the English rule of strict liability, but had to be even more stringent, as a result of which no firm carrying out an inherently dangerous or hazardous activity might escape from liability, irrespective of whether there was any negligence involved on the part of the firm or not. The bases of the new rule as indicated by the Supreme Court are two: The rule in Rylands v. Fletcher requires non-natural use of land by the defendant and escape of the thing from his land, which causes damage. But the rule in MC Mehta v. Union of India is not dependent upon any such condition. The necessary requirements for applicability of the new rule of absolute liability are that the defendant is engaged in hazardous or inherently dangerous activity and that harm results to anyone on account of an accident in the operation of such hazardous or inherently dangerous activity. Fletcher will not cover cases of harm to persons within the premises where the inherently dangerous activity is carried out, for the rule requires escape of the thing which causes harm from the premises. The new rule makes no distinction between the persons within the premises where the enterprise is operating and persons outside the premises because escape of the thing causing harm from the premises is not a necessary condition for the applicability of the rule. Further, the rule in Rylands v. Another important point of distinction between the two rules is in the matter of award of damages. Damages awardable where the rule in Rylands v. A small bump in the road was encountered in Charan Lal Sahu v. Union of India and doubts were expressed as to the quantum of damages payable.

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Chapter 5 : Nuisance and the Rule in Rylands v Fletcher - Law Trove

The rule in Rylands vs. Fletcher The plaintiff was Thomas Fletcher and the defendant's was John Rhylands. In the circumstances, the defendant had constructed a reservoir on land that was on leasehold, whose purpose was to supply water into his powered textile mill.

Eastern Counties a company were using chemicals that seeped through the floor of their building into the water supply of Cambridge Waters - so the drinking water was being contaminated. Lord Gough said that the storage of chemicals on industrial premises should be regarded as an almost classic case of non natural use Gore v Stannard [] Facts: There was a fault in the electrical wiring of a business premises and it set fire to a pile of tyres. The case mentions the flood was one of extraordinary violence, but floods of extraordinary violence must be anticipated as events that are likely to take place from time to time Hale v Jennings Bros [] Facts: The claimant tended a booth at a fair belonging to the claimant. She was hit by an escaped chair from a chair-o-plane Held: This case, therefore, suggests you can recover if you are an occupier of land who suffers personal injury as a result of something escaping Read v J Lyons [] Facts: An employee was injured in an explosion at a munitions factory. It was held that there was no escape a requirement of the tort as the injury happened at the factory. Although other torts e. An unknown third party maliciously turned on tap water and then blocked all the drains causing the water to flood the neighbouring property Held: The defendant was not liable because the escape was caused by a third party. Rigby v Chief Constable of Northamptonshire [] Facts: In this case the police were chasing an armed psychopath who had locked himself in a gun shop. The police fired CS gas canisters into the shop, causing an explosion and a fire, which damaged the building. If they had dropped the canister on their own land and the gas had drifted into the gun shop then that might have fallen under the tort in Rylands v Fletcher Rylands v Fletcher [] Facts: The defendant independently contracted to build a reservoir. The water from the reservoir subsequently flooded the mine Held: The defendant was not negligent or vicariously liable as he had employed contractors. However, the court said that the defendant was liable anyway under this new rule the court made. The court decided, in this case, that the defendant had brought water to his land in a non-natural use of that land because water in such quantities is unnatural. As water is likely to do mischief if it escapes - and this water did escape out of the reservoir and down the mineshafts - the defendant was liable for all the damages that were a natural consequence of that mistake.

Chapter 6 : Liability under the rule in Rylands v Fletcher | Practical Law

Liability under Rylands v Fletcher is now regarded as a particular type of nuisance. It is a form of strict liability, in that the defendant may be liable in the absence of any negligent conduct on their part.

Chapter 7 : The Rule in Rylands v Fletcher | Digestible Notes

Fire spread onto C's land. Held: that defendant had brought tyres, not fire, onto his land and therefore there was no 'escape' for the purposes of the rule in Rylands v Fletcher. Rickards.

Chapter 8 : A rule of strict liability in the case of Ryland V Fletcher ~ tanzanianweb

In Stannard (t/a Wyvern Tyres) v Gore, the Court of Appeal held that there is no special modification of the rule under Rylands v Fletcher for cases involving the escape of fire.

Chapter 9 : Does Rylands v Fletcher apply to damage caused by fire? (Court of Appeal) | Practical Law

On 4 October , the judgment for Mark Stannard (t/a Wyvern Tyres) v Robert Gore was handed down, and, as a result of this case, the future scope of the application of Rylands v Fletcher in fire cases has now been restricted.