



FACULTY OF JURIDICAL SCIENCES

COURSE: LL.B. I st Semester

SUBJECT: LAW OF TORTS

SUBJECT CODE: LLB102

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LECTURE 23

TOPIC: REMEDIES- DAMAGES, INJUNCTION, SPECIFIC RESTITUTION AND REMEDIES UNDER CONSTITUTION

Specific Restitution of Property- The third judicial remedy available in the Law of Torts is that of Specific Restitution of Property. Restitution means restoration of goods back to the owner of the goods. When a person is wrongfully dispossessed of his property or goods, he is entitled to the restoration of his property.

Extra-judicial Remedies

When a person can lawfully avoid or remedy himself without the intervention of courts, the remedies are called extra-judicial remedies. In this, the parties take the law in their own hands. Some examples are:

On the other hand, if the injured party takes the law in their own hand (albeit lawfully), the remedies are called extra-judicial remedies. These are of five main types:

Expulsion of trespasser- A person can use a reasonable amount of force to expel a trespasser from his property. The two requirements are:

- The person should be entitled to immediate possession of his property.
- The force used by the owner should be reasonable according to the circumstances.

Illustration: A trespasses into B's property. B has the right to use reasonable force to remove him from his property and re-enter himself.

1. **Re-entry on land-** The owner of a property can remove the trespasser and *re-enter* his property, again by using a reasonable amount of force only.
2. **Re-capture of goods-** The owner of goods is entitled to recapture his/her goods from any person whose unlawful possession they are in. Re-capture of goods is different from specific restitution in that it is an extra-judicial remedy, in which the person need not ask the court for assistance, instead, takes the law in his own hands.

Illustration: If A wrongfully acquires the possession of B's goods, B is entitled to use reasonable force to get them back from A.

3. **Abatement-** In case of nuisance, be it private or public, a person (the injured party) is entitled to remove the object causing nuisance.

Illustration: A and B are neighbors. Branches of a tree growing on A's plot enter B's apartment from over the wall. After giving due notice to A, B can himself cut or remove the branches if they're causing him nuisance.

4. **Distress Damage Feasant-** Where a person's cattle/other beasts move to another's property and spoil his crops, the owner of the property is entitled to take possession of the beasts until he is compensated for the loss suffered by him.

Exercise:

1. In private nuisance, although damage is one of the essential the law often it.

- a) presume
- b) resume
- c) stops

d) disregards

2. A right to do an act, which would otherwise be a nuisance, may be acquired by

a) Legal authority

b) Prescription

c) Both (a) and (b)

d) None of these

3. On the expiration of the period of 20 years, the nuisance becomes as if it has been authorised by grant of the land owner since beginning.

a) Legalised ab initio

b) Void ab initio

c) Avoidable

d) None of these

4. Trespass is

a) Direct physical interference

b) Use of abusive language

c) Making sounds to disturb

d) All of the above

5. Essential requirements of battery are

a) Use of force with lawful justification

b) Use of force without lawful justification

c) Use of tactics according to law

d) Use of physical violence