

Huebschmann et ux v. Grand Co., 166 Md. 615 (Md. 1934)

FACTS:

- Eastern Avenue runs east/west, intersecting Dean Street running north/south. South Conkling Street runs west of and parallel to Dean Street.
- John and Annie Huebschmann own three adjacent lots (no. 3701, 3703, and 3705) on the south side of Eastern Avenue. No. 3701 lies at the intersection of Eastern and Dean. No. 3701 also binds on the east side of Dean Street for 135 ft to a point where it intersects Yankee Street running east from Dean Street.
- The Grand Company owns adjacent lots no. 509-517 South Conkling Street. These lots extend easterly to the west side of Dean Street, and opposite the west side of the Huebschmann lot no. 3701 Eastern Avenue.
- Dean Street between Eastern Avenue and Yankee Street is used as a way of ingress and egress to and from the rear of properties fronting on South Conkling Street and for the accommodation and convenience of the general public.
- The Grand Company, using its lots as a motion picture theatre, applied and the board of estimates of Baltimore City approved the proposed extension of its building into the bed of Dean Street, despite the objection of Huesbschmann, who had protested to the attorney in whose name the notice (for the extension) was sent and the building engineer's office.
- The building engineer's office issued a permit for the construction of the extension and it was erected.

PROCEDURAL HISTORY:

- The Huebschmanns filed suit against the Grand Company to compel it to remove the extension, on the theory that it was an unlawful nuisance and it inflicted a special injury on them by narrowing Dean Street so as to deprive them of convenient access to their property abutting on Dean Street opposite the extension.
- The suit was dismissed, and they appealed to the Court of Appeals of Maryland.

ISSUE:

- Whether the city's approval of the Grand Company's proposed extension into the bed of Dean Street was valid?

HOLDING:

- The privilege granted to the Grand Company to extend its facilities obstructed the Huebschmanns and others' access to Dean Street. It was entirely for the Grand Company's private benefit and wholly unaffected by any public interest. Its only purpose and effect was to allow the Grand Company to enlarge its accommodations more cheaply. Thus, the privilege given to the Grand Company was an invalid exercise of the city's power to control streets and highways "as avenues of communication for the whole public, and not to be hired or rented to private persons for revenue."

REASONING:

- The Huebschmanns, as members of the public, are entitled to the use of the streets, and as property owners whose property abuts the Dean Street, they have a private interest in it as means of access to their property, so they cannot be deprived without just compensation.