

JOHN HERR AND WIFE,  
 vs.  
 LEMUEL BIERBOWER.

} JULY TERM, 1851.

[INJUNCTION TO RESTRAIN TRESPASS.]

An injunction will not be granted to restrain a mere trespass, where the injury is not irreparable and destructive to the plaintiff's estate, but is susceptible of perfect pecuniary compensation, in the ordinary course of law.

But if the trespass goes to the destruction of the inheritance, or the mischief be not susceptible of perfect and adequate pecuniary compensation at law, or if the acts done or threatened to the property be ruinous, or irreparable, or impair its just enjoyment in future, the Courts of Equity will, without hesitation, interfere by injunction.

Taking possession of a portion of a city building lot, and digging upon it a foundation, and erecting a building upon such foundation, thereby reducing the front of the lot so as to prevent the plaintiff's building upon it himself in the most advantageous mode, goes to the destruction, *pro tanto*, of the estate, and impairs the just enjoyment of the property in future, and will be restrained by injunction.

But the erection of a fence of wood upon a part of such lot, and the admission of such a trespass, does not, *per se*, furnish a sufficient claim to the aid of a Court of Equity by injunction.

[The bill, in this case, was filed for an injunction to restrain the defendant from building upon, or otherwise dispossessing the complainants of a certain lot, situated in the city of Baltimore. The allegations of the bill and answer are fully stated in the opinion of the Chancellor, delivered upon the hearing of the motion to dissolve the injunction which had been granted upon the bill.]

THE CHANCELLOR:

The question which arises in this case, is one which has repeatedly engaged the attention of this Court, and has been deliberately and carefully considered upon several occasions.

Though difficulties and doubts may and do arise in the application of the principle by which such cases must be governed,