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**JUDICIAL PRACTICE ON REAL ESTATE OWNERS SUCCESSFULLY CLAIMING COMPENSATION  
FROM THEIR NEIGHBOUR FOR VIEW BLOCKING**

**BY DR. KOVÁCS ZOLTÁN BALÁZS LL.M.**

Under the Hungarian Civil Code, neighbours are required to refrain from any conduct that would needlessly disturb others, especially their neighbours, or jeopardize the exercise of their rights.

Well-established judicial practice lies behind the above-cited provision of the Civil Code, the most important features of which we briefly summarize in the following.

A person constructing a building on his land is liable for compensation to his neighbour if the value of the neighbour's building decreases as a consequence of the construction in a way and to an extent the neighbour is not obliged to tolerate. One example can be if e.g. the newly constructed building blocks the neighbour's view or disturbs the neighbour in a manner he is not required to tolerate, for example, by increasing the noise and traffic. Negative effects on the neighbour's privacy may also serve as valid legal grounds for compensation.

The judicial practice has been clear and consequent in saying that a person constructing the building in a manner that extraordinarily disturbs his neighbour is liable for compensation even if the construction was implemented fully in accordance with construction regulations and the relevant building permit granted by the competent authority.

When suing a person for constructing on his land, the plaintiff must prove that (i) the construction was implemented in a manner that disturbs him (e.g. blocks the view the plaintiff previously had); (ii) he has suffered damages and that (iii) there is a causal relationship between the implementation of the construction and the damages suffered, i.e. the plaintiff suffered damages as a consequence of the construction.

If the plaintiff is able to prove all of the above, the defendant may only be relieved from liability if he is able to prove that he acted in a manner that can generally be accepted in the given situation.

Courts generally do not accept the argument that the constructing party should have used his other land for the construction, because if an entity owns land on which he may construct a building, others may not prevent him from doing so. Accepting the opposite approach would mean that the owner's rights would be unlawfully infringed upon.

However, the plaintiff may argue that the defendant could and should have built the building on the relevant land differently and in a way which would not disturb the neighbour's rights and would not have resulted in the neighbour suffering damages or as much damages as caused on grounds of loss of view and/or privacy and/or the increase in traffic or noise.

The amount of damages that can be claimed is determined on the basis of an expert opinion. The court therefore appoints a forensic construction and real property expert to determine the market value of the affected building before and after the construction.

It is also worth noting that, in addition to the owner of the land on which the construction takes place, the company actually carrying out the construction may also be held liable for the damages caused (provided that the construction company is also the holder of the building permit) if the plaintiff successfully meets all the proof requirements above. This is because under the Hungarian Civil Code, those who cause damages jointly are jointly and severally liable towards the aggrieved party for the damages caused.

Whether a relevant construction interferes with neighbour's rights in an extraordinary, i.e. unacceptable way always depends upon the circumstances of the case. As described above, the judicial practice can be a useful guide when it comes to assessing whether a given construction violates the rules of Hungarian civil law and damages may be claimed.

*The contents of this article are intended to provide only a general overview of the subject matter. Specialist advice should be sought for specific matters. Queries relating to this article should be addressed to the authors at:*

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