



## Hesperides Hotels Ltd v Muftizade

[1979] AC 508, [1978] 2 All ER 1168, [1978] 3 WLR 378, 142 JP 541, 122 Sol Jo 507

**Court:** HL

**Judgment Date:** circa 1979


### Case History

Annotations	Case Name	Citations	Court	Date	Signal
--	<b>Hesperides Hotels Ltd v Muftizade</b>	[1979] AC 508, [1978] 2 All ER 1168, [1978] 3 WLR 378, 142 JP 541, 122 Sol Jo 507	HL	circa 1979	
On Appeal from	<b>Hesperides Hotels Ltd v Aegean Turkish Holidays Ltd</b>	[1978] QB 205, [1978] 1 All ER 277, [1977] 3 WLR 656, 121 Sol Jo 459	CA	circa 1978	

### Cases referring to this case

**Annotations:** All Cases **Court:** ALL COURTS


**Sort by:** Judgment Date (Latest First)

Treatment	Case Name	Citations	Court	Date	Signal
Applied	<b>Buttes Gas and Oil Co v Hammer (No 3)</b>	[1981] QB 223, [1980] 3 All ER 475, [1980] 3 WLR 668, 124 Sol Jo 630	CA	circa 1981	

### Cases considered by this case

**Annotations:** All Cases **Court:** ALL COURTS

**Sort by:** Judgment Date (Latest First)

Treatment	Case Name	Citations	Court	Date	Signal
Applied	<b>Miliangos v George Frank (Textiles) Ltd</b>	[1976] AC 443, [1975] 3 All ER 801, [1975] 3 WLR 758, [1975] 2 CMLR 585, [1976] 1 Lloyd's Rep 201, 119 Sol Jo 774	HL	circa 1976	

### Catchwords & Digest

**CONFLICT OF LAWS - PROPERTY - JURISDICTION REGARDING FOREIGN IMMOVABLES - GENERAL RULES RELATING TO FOREIGN IMMOVABLES - GENERAL PRINCIPLES OF JURISDICTION - TITLE TO FOREIGN IMMOVABLES DIRECTLY IN ISSUE - TRESPASS TO LAND--LAND SITUATE ABROAD**

Appellants, two companies owned and controlled by Greek Cypriot families, were the respective owners of two hotels at Kyrenia in northern Cyprus. In July 1974 Turkey invaded and occupied northern Cyprus including Kyrenia. In consequence the Greek Cypriots controlling appellant companies fled to southern Cyprus and had been unable to return to Kyrenia. Northern Cyprus was controlled by a body calling itself the

Turkish Federated State of Cyprus which authorised the occupation and use of appellants' hotels by Turkish Cypriots. In 1976 the Turkish Federated State of Cyprus issued in England, through a London travel agency, brochures which advertised the hotels to English holiday-makers from whom bookings for holidays at the hotels were accepted by the travel agency. On 16 February 1977 appellants issued a writ against the travel agency and against respondent, the London representative of the Turkish Federated State of Cyprus. In the writ appellants asserted ownership of the hotels, admitted that they had been out of possession of them since 1974, and asserted that the travel agency and respondent had conspired together to effect trespasses to the hotels by the unauthorised use of them. The writ claimed, inter alia, damages for conspiracy to effect the trespasses. Respondent applied to a judge in chambers to have the writ set aside on the ground that English courts had no jurisdiction to entertain an action for damages for trespass to land situated abroad. The judge upheld the writ and respondent appealed to the Court of Appeal. On the hearing of the appeal appellants amended the writ to claim as additional relief damages for conspiracy to effect trespasses to the contents of the hotels. Appellants' title to the hotels was not disputed by respondent. The Court of Appeal unanimously held that the writ should be set aside, the majority so holding because (a) appellants' claim fell within the rule of law that English courts had no jurisdiction to entertain an action for the determination of the right to possession of foreign land or for the recovery of damages for trespass to foreign land and that the claim for conspiracy had been framed as a device to overcome that rule; and (b) the claim for conspiracy to effect a trespass to the contents of the hotels, although not barred by the rule (which only applied to land) nevertheless disclosed no cause of action because appellants were not in possession of the contents at the time of the alleged conspiracy. On appeal, appellants, while accepting the rule that English courts had no jurisdiction to entertain an action for damages for trespass to foreign land where there was a dispute as to title, submitted (i) that the rule did not apply where there was no dispute as to title of foreign land; (ii) nor did the rule apply to an action based on a conspiracy to effect or procure trespass to foreign land if the conspiracy was entered into in England; (iii) that the rule should if necessary be restated to the extent required to allow their action to be brought; and (iv) that their action in respect of trespasses to the contents of the hotels could properly be laid in conversion: Held (1) the rule of law that English courts had no jurisdiction to entertain an action for the determination of the title to, or the right to the possession of, foreign land or the recovery of damages for trespass to foreign land was not limited to cases where there was a dispute as to title. The rule applied to appellants' claim for trespass to the hotels even though no question of title or the right to possession of them had been raised; (2) appellants' claim for conspiracy to effect a trespass to the hotels depended on them showing an intention to effect a trespass on foreign land, and that could only be established if the court was able to adjudicate on the right to possession of the foreign land, which in turn was precluded by the rule, and the claim for conspiracy was merely an attempt to dress up a substantive claim in trespass in the guise of a claim for conspiracy; (3) there was not sufficient reason to revise or restate the rule, having regard to the fact that it was accepted in other common law jurisdictions; a change might well involve questions of the comity of nations because of the possible conflict with foreign jurisdictions and this was a matter for legislation rather than judicial decision; consequential changes in English law, eg to prevent forum shopping, would be required; and there had not been a sufficient change of circumstances to justify changing the rule. Accordingly the appeal would be dismissed in regard to appellants' claim for damages for conspiracy to effect trespasses to the hotels, and the order striking out the writ and substantive claim so far as they related to land or immovable property in Cyprus would be upheld; (4) appellants' claim for conspiracy to effect trespasses to the contents of the hotels was not barred by any rule of law and could validly be laid in conversion, since appellants had alleged interference with their chattels, no local law was relied on by respondent to justify the interference, and it was not necessary for a claim in conversion that appellants had been in possession of the chattels at the time of the conversion. The appeal would therefore be allowed to the extent necessary to permit appellants' action to continue in respect of the claim for conspiracy to effect trespasses to the contents of the hotels.