

## LPJ Investments Pty Ltd v Howard Chia Investments [1989] 24 NSWLR 490

<http://lawcasesummaries.com/knowledge-base/lpj-investments-pty-ltd-v-howard-chia-investments-1989-24-nswlr-490/>

### Facts

- Photographs are taken from above a man's house at a great height
- He alleges trespass

### Issue

- Does flying over the airspace of a property constitute trespass? Especially when privacy is breached?

### Held

- Rights for invasion of airspace are usually founded in nuisance not trespass
- The precedent in *Kelsen* was not intended to reach "to the heavens"
- ***Winfield on tort* stated it was only trespass if it interfered with common use of the land**
- The maximum of "to the heavens" is fanciful (*Windsworth*)
- Must balance the rights of the home owner and rights of the general public
- Photograph is irrelevant
- The Civil Aviation Act applies to planes doing all kind of things, not just passenger planes
- CAA does not give permission for other damaging acts, e.g. admitting smoke

---

Law case summary from [www.lawcasesummaries.com](http://www.lawcasesummaries.com)