



Session 7

Comparative Studies in Tort Law (6): Joint Torts & Justifiable Self-Defense

Subject: Tort Law

For English Language Based Bachelor of Law Program (ELBBL)

Lecturer: Dr. Phalthy Hap

1

Outline

- Joint Torts
- Definitions of Justifiable Self-Defense

2

Meaning

- **Joint tortfeasors:** “Two or more tortfeasors who contributed to the claimant’s injury and who may be joined as defendants in the same lawsuit” (Black’s Law Dictionary)
- **Self-defense:** “(1) The use of force to protect oneself, one’s family, or one’s property from a real or threatened attack” (Black’s Law Dictionary)

3

Cambodian Civil Code, Art. 754

1. Where harm is caused jointly by the acts of several persons, each actor is jointly liable for the resulting harm.
2. In the case described in paragraph (1), where a joint tortfeasor proves his individual percentage contribution to the harm, such actor shall be liable only for that percentage of the total harm. However, this shall not apply where it is determined that the actors engaged in a conspiracy or otherwise colluded in causing the harm.
3. Where a joint tortfeasor voluntarily pays the entire amount of damages, the joint tortfeasor may demand indemnification from the other jointfeasors in accordance with their respective contributions to the harm.

4

Japanese Civil Code, Art. 719

1. If more than one person has inflicted damages on others by their joint tortious acts, each of them shall be jointly and severally liable to compensate for those damages. The same shall apply if it cannot be ascertained which of the joint tortfeasors inflicted the damages.
2. The provisions of the preceding paragraph shall apply to any person who incited or was an accessory to the perpetrator, by deeming him/her to be one of the joint tortfeasors.

5

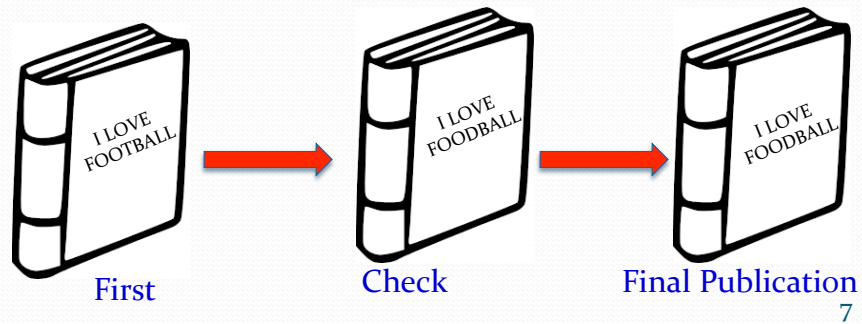
Activity (1)

Think of any examples of joint torts.

6

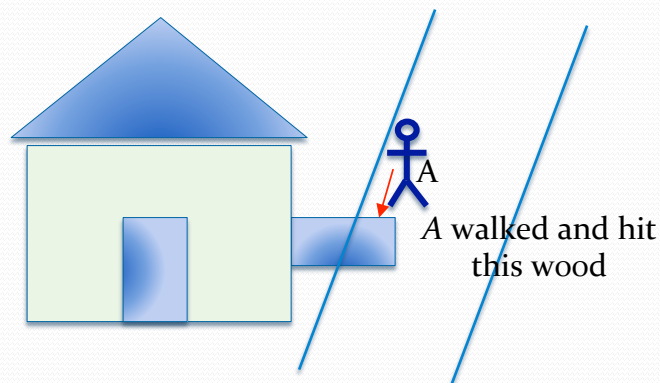
Discussion of Joint Torts (1)

- *A* asked *B* to publish a book by giving the proper cover. *B* prepared the cover with the wrong spelling and took it to *A* for final check. *A* was very busy with his/her work and failed to see the mistake. Finally the book was published with the wrong spelling.



Discussion of Joint Torts (2)

- *A* walked on the way and then hit the wood that *B* put near his house. Discuss about the liability.



Cambodian Civil Code, Art. 755

1. An act of justifiable self-defense is a harmful act that is made against an unlawful harmful conduct but is necessary in order to defend the physical well-being or the property of oneself or another from such conduct, and involves a situation in which the harmful conduct and the act of self-defense are closely related in time and there is no disparity in the means of self-defense employed and the severity of the harmful conduct [to be prevented thereby].
2. An act of emergency escape is an act that causes harm to another but was necessary in order to defend the physical well-being or the property of oneself or another from a present or impending danger, and involves a situation in which there is no disparity in the means of emergency escape and the severity of the danger [to be avoided thereby].

9

Japanese Civil Code, Art. 720

1. A person who, in response to the tortious act of another, unavoidably commits a harmful act to protect himself/herself, the rights of a third party, or any legally protected interest, shall not be liable for damages; provided, however, that the victim shall not be precluded from claiming damages against the person who committed the tortious act.
2. The provisions of the preceding paragraph shall apply mutatis mutandis to cases where a Thing belonging to others is damaged to avoid imminent danger arising from that Thing.

10

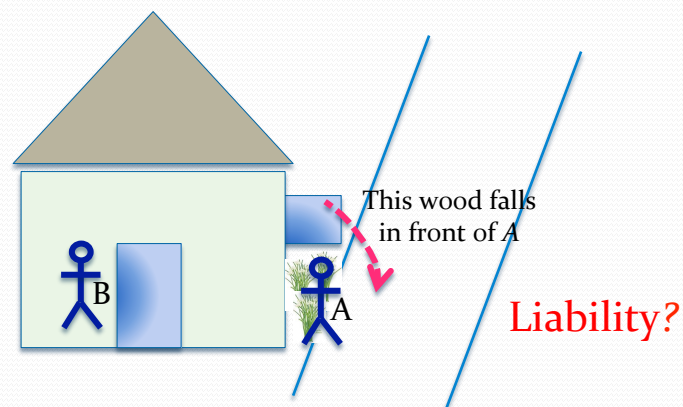
Activity (2)

Think of any examples of justifiable self-defense.

11

Discussion of Justifiable Self-defense (1)

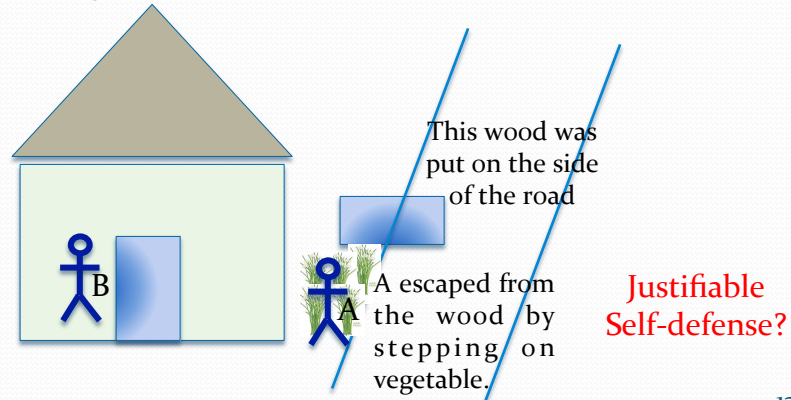
While walking, A saw a sudden falling piece of wood and tried to escape but stepping on B's vegetable.



12

Discussion of Justifiable Self-defense (2)

B dropped a wood on the side of road, when A walking a long the road, A escaped from the wood by stepping on the vegetable.



13

Thank you!!!

Questions and Answers

Contact:

hphalthy@yahoo.com

www.phalthy.wordpress.com

14