



Session 6

## Comparative Studies in Tort Law (5): Liability for Dangerous Items Liability for Structures Affixed to Land

Subject: Tort Law

For English Language Based Bachelor of Law Program (ELBBL)

Lecturer: Dr. Phalthy Hap

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## Outline

- Liability for dangerous items
- Liability for structures affixed to land

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## Meaning of Dangerous Items

- Explosive items: Alcohol, gasoline, oil,...
- Radioactive substance: nucleus fuel,...
- Toxic chemicals: lead, mercury, chlorine gas,...
- Toxic organism

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## Cambodian Civil Code, Art. 752

A person who owns or manages an automobile or other transportation apparatus, an explosive item, a radioactive substance, a toxic chemical, a toxic organism or any other highly dangerous item is liable for damages for any harm caused to another thereby. However, this shall not apply where the harm occurred due to an unavoidable force, or where there was no failure in the person's management of the dangerous item and the harm was caused by the act of the injured party or a third party.

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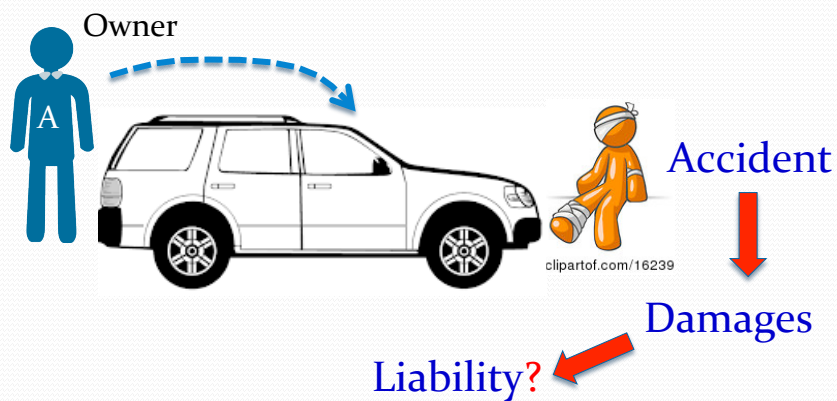
## Activity (1)

Think of any examples of torts caused by dangerous items.

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## Discussion of Liability for Dangerous Items (1)

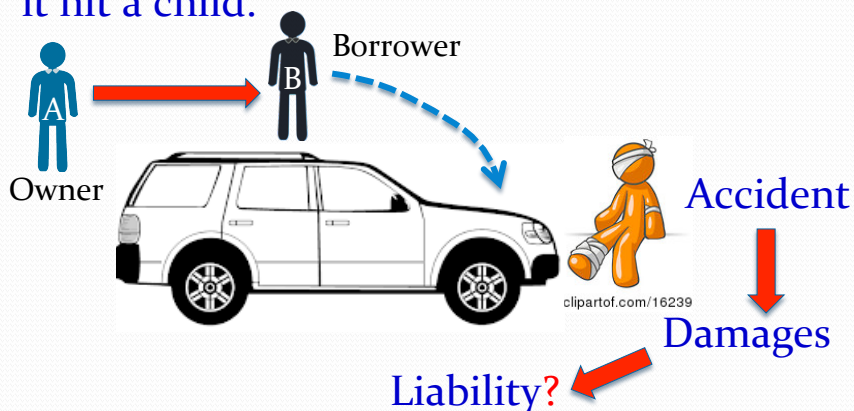
A drove his car and then it hit a child.



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## Discussion of Liability for Dangerous Items (2)

*B* borrowed *A*'s car. *B* drove *A*'s car and then it hit a child.



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## Cambodian Civil Code, Art. 753

1. Where harm results to another due to a failure in the installation or control of a structure affixed to or appurtenant to land, the person who manages the structure and the owner of the structure are jointly liable for damages. However, the person who manages the structure shall be exempted from liability if he proves that he exercised proper control over the structure.
2. The relative proportions of liability between the person who managed the structure and the owner of the structure shall be determined in accordance with their relative contributions to the failure in the installation or control of the structure.

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## Japanese Civil Code, Art. 717

1. If any defect in the installation or preservation of any structure on land causes damages to others, the possessor of such structure shall be liable to the victims to compensate for those damages; provided, however, that, if the possessor has used necessary care to prevent the damages arising, the owner must compensate for the damages.
2. The provisions of the preceding paragraph shall apply mutatis mutandis to cases where there is any defect in the planting or support of bamboos and trees.
3. In the cases of the preceding two paragraphs, if there is another person who is liable for the cause of the damages, the possessor or owner may exercise their right to obtain reimbursement against such person.

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## French Civil Code, Art. 1384

1. A person is liable not only for the damages he causes by his own act, but also for that which is caused by the acts of persons for whom he is responsible, or by things which are in his custody.
2. However, a person who possesses, regardless of the basis thereof, all or part of a building or of movable property in which a fire has originated is not liable towards third parties for damages caused by that fire unless it is proved that the fire must be attributed to his fault or to the fault of persons for whom he is responsible.
3. This provision may not apply to the landlord and tenant relationship, which remains governed by Articles 1733 and 1734 of the Civil Code.

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## French Civil Code, Art. 1386

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The owner of a building is liable for the damage caused by its collapse, where it happens as a result of lack of maintenance or of a defect in its construction.

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## Activity (2)

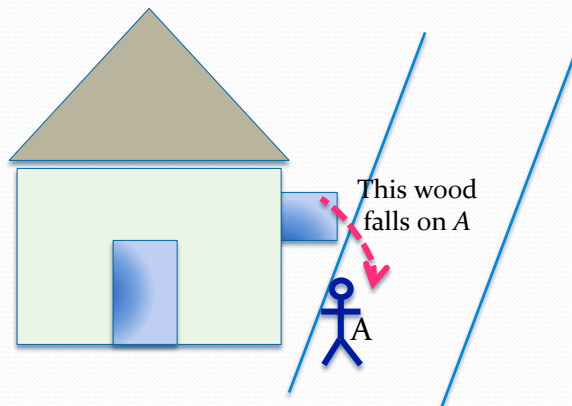
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Think of any examples of the damages caused by the structures affixed to land.

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## Discussion of Structure Affixed to Land (1)

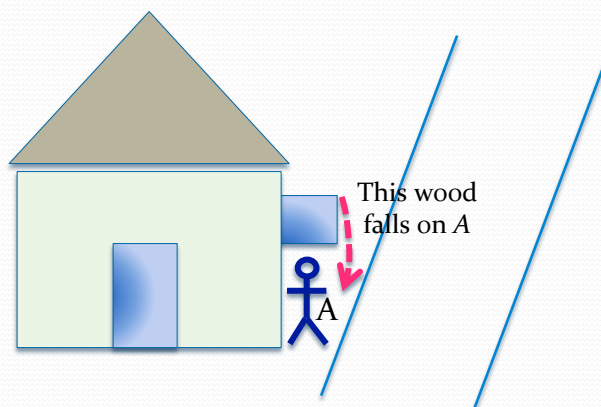
This wood affixed to the house falls on *A* walking on the road. Consider who is responsible for the liability?



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## Discussion of Structure Affixed to Land (2)

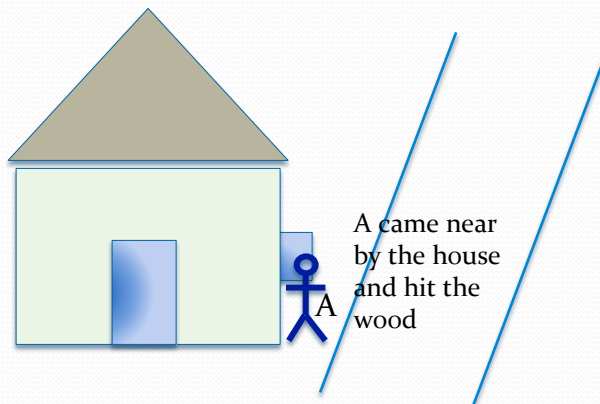
This wood affixed to the house falls on *A* walking near the house. Consider who is responsible for the liability?



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### Discussion of Structure Affixed to Land (3)

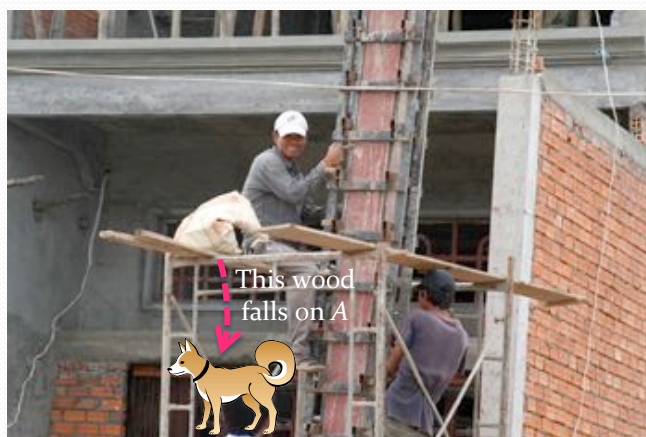
This wood affixed to the house falls on *A* walking near the house. Consider who is responsible for the liability?



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### Discussion of Structure Affixed to Land (4)

The dog came to the construction place and the board fell causing the dog death.



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## Discussion of Structure Affixed to Land (5)

Construction at Olympic Stadium fell iron bar causing one woman death, [Nov. 2014](#).



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**Thank you!!!**

**Questions and Answers**

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