

REID v DE BEERS CONSOLIDATED MINES (1891 – 1892) 9 SC 333

Importance	The precedent established by this case is that there is no common law duty on the part of a mining company to continue with the working of a claim for the sole reason that doing so would be necessary to prevent damage occurring from another claims holder. [Need to check whether overruled]. The case is related to <i>New Gordon Diamond Mining Company v Du Toit's Pan Mining Board</i> (1891 – 1892) 9 SC 150.
Parties	Appellant: Reid Respondent: De Beers Consolidated Mines
Facts	<p>A dispute arose between neighbouring claimholders in the Du Toit's Pan Mine in Griqualand West regarding damages caused by water. Reid alleged that De Beers Consolidated Mines had allowed water to overflow its claims and flood the claims held and worked by him under a lease from the New Gordon Diamond Mining Company. De Beers, in turn, had acquired its claims from Anglo-African Co. and held them under a perpetually renewable lease from the London and South African Exploration Company who were the owners of the mine.</p> <p>Before he even began working his claims in September 1891 Reid held that a large body of water had collected on the claims held by De Beers Consolidated Mines. The existence of this body of water was due to excavations in the said claims made in the course of mining operations. As a result of Reid commencing with the working of his claims, and due also to the fact that De Beers was not working its claims, the body of water increased greatly in both area and depth. On 30 January 1892 the water from De Beer's claims overflowed and flooded Reid's claims, compelling him to stop work.</p> <p>De Beers admitted the accumulation of water but denied the remaining allegations, holding that mining operations on its claims had been conducted 'in the ordinary and proper mode of mining in Griqualand West' and that the accumulation of water was due to 'natural gravitation'. The court pointed out that the mining operations had in effect been conducted by the Anglo-African Co. since De Beers had, since acquiring its claims, not worked them at all.</p>
Relief sought	The appellant sought an order compelling the respondent to remove the water that had overflowed on his claims, an interdict restraining the respondent from allowing the water on its claims to overflow and flood the claims of the appellant, and £2000 in damages.
Legal Issues & Judgment	Legal Issue 1: Were the damages sustained by Reid the result of a wrong or <i>iniuria</i> on the part of De Beers Consolidated Mines? Put another way, was there a legal duty upon De Beers to get rid of the water that had accumulated underground in its claims, notwithstanding that they were not at the time working the claims? Had they been negligent? Had they created a nuisance inconsistent with the principle <i>sic utere tuo ut alienum non laedas</i> (that one should not use his property in a manner that harms another).

	<p>Judgment: The court cited and discussed a long line of English and South African cases that dealt with the obligations owed by neighbouring claimholders toward each other. None of these cases, it was found, dealt with a sufficiently analogous set of facts to serve as authorities. The distinguishing factual features of the case, per Lawrence JP, were that De Beers had been ahead of its competitors in working its claim down and water had therefore accumulated at a <i>deeper</i> level than Reed’s workings, but had overflowed as the water accumulated over time (at 353). The English authorities dealt with cases where water flowed by natural gravitation from one working to another (in which case there was no liability) and where water was collected by <i>artificial</i> constructions or excavations or diverted by artificial channels, otherwise than in the ordinary course of mining (in which case there was an action) (at 350). These did not fit the facts of the present case. The South African cases, in turn, dealt with situations where the one claimholder had adopted unusual or exceptional methods of working, or had left their ground high, thus causing delay or obstruction to his neighbours (at 353). None of the South African cases, moreover, dealt with water (ibid). Proceeding from the assumption that the role of the courts was to state and not make law, the court accordingly found that the plaintiff had not established a cause of action. To hold De Beers liable for the removal of the water would be to make working (of the claim) compulsory whenever the cessation of work caused damage to another. The court could not hold that the cessation of work, in itself, amounted to negligence or the production of nuisance. ‘[I]f every claimholder was liable for damage caused by mere non-working, irrespective of leaving his claims high and dangerous, the Court would be compelled to fix some standard or rate of proper working which it would be difficult if not impossible for any court to determine’ (at 358).</p> <p>Three other judges of appeal delivered concurring judgments, with slightly (but not significantly) different positions on the facts and law and the remaining judge of appeal concurred.</p> <p>Legal Issue 2: Could the conduct of the Anglo-African Co. as the predecessor holder of the claims held by De Beers, with regard to the working of the claims be imputed as the conduct of De Beers?</p> <p>Judgment: The court held that it would ‘simplify’ the case if the conduct of De Beers and its predecessor was treated as one because De Beers had acquired their claims, in line with the principles of mining law, <i>cum onere</i>, i.e. in purchasing the rights they also purchased the liabilities of their predecessor, which included a responsibility toward neighbours for any consequences which might result from the conditions of the works they took over, to the same extent as if there had been no change of ownership (at 340).</p>
Outcome	The appeal was dismissed.

Obiter	None.
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