

# Fearn and others (Appellants) v Board of Trustees of the Tate Gallery (Respondent)

Case ID: 2020/0056

## Case summary

### Issue

Whether the Court of Appeal erred in failing to hold that the claimants were entitled to a remedy in the tort of private nuisance by reason of the Tate Modern's use of the top floor of its Blavatnik Building as a viewing platform.

### Facts

The Tate Modern opened an extension in 2016 called the Blavatnik Building. The Blavatnik building is ten stories high and, on its top floor, has a viewing platform which offers panoramic views of London. The Appellants own flats neighbouring the Tate Modern which are of a similar elevation to the Blavatnik building and whose walls are mainly made of glass. On the southside of the viewing platform, visitors to the Tate can see directly into the flats of the Appellants.

The Appellants seek an injunction requiring the Tate to prevent its visitors from viewing their flats from the viewing platform, or alternatively, an award of damages. Their claim is based on the common law of nuisance.

### Judgment appealed

[\[2020\] EWCA Civ 104](#)

## Parties

### Appellant(s)

Giles Fearn and others

### Respondent(s)

Board of Trustees of the Tate Gallery

## Appeal

### Justices

Lord Reed, Lord Lloyd-Jones, Lord Kitchin, Lord Sales, Lord Leggatt

### Hearing start date

7 December 2021

**Hearing finish date**

8 December 2021