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The Magistrates Court in Jerusalem
Civ. 8750/95
Zayd v. The Israel Defence Forces
Opening date: 27 April 1995

At the Magistrates Court in Jerusalem

In the matter of: **1. _____ Zayd**
 2. _____ Zayd

both of Qalandiya, Jerusalem

both represented by attorney Badrah G. Huri
of HaMoked: Center for the Defence of the Individual
founded by Dr. Lotte Salzberger
4 Abu Obeidah Street, Jerusalem
Tel. 02-283555; Fax 02-276317

The Plaintiffs

v.

- 1. The Israel Defence Forces**
- 2. The Minister of Defence, Mr. Yitzhak Rabin**

both represented by the Jerusalem District
Attorney's Office
4 Yedidya Street, Jerusalem

The Defendants

Nature of the claim: **Damage to property**

Amount of the claim: **NIS 7,370**

Complaint

1. The Plaintiffs hereby respectfully submit their complaint to the Honorable Court, while stating that all of their arguments are asserted severally and/or alternatively and/or cumulatively, all as the context prescribes, and that all of the exhibits attached to the complaint constitute an integral part hereof.
2. The Plaintiffs are a husband and wife residing in a private, two story house owned by them on the main street of Qalandiya-Jerusalem, which is located opposite the UNRWA vocational school of Qalandiya (hereinafter: the house).

3. The Defendant is the state army, which is subject to the government's authority and comprises land, navy and air forces. The minister in charge of the army on behalf of the government is the Minister of Defence, namely Defendant 2.
4. The house is inhabited by the two Plaintiffs, their two daughters and their two married sons, who reside with their wives and children on the second floor.
5. On 7 September 1993 at 07:00, IDF soldiers, "the Defendants' agents", arrived at the Plaintiffs' house and knocked on the door. Plaintiff 2 answered. They notified her that they were going up to the roof and went up immediately.
6. Plaintiff 1 was still sleeping. He woke up from the noise and from his wife's calls to him. Plaintiff 1 saw the soldiers hauling equipment and making noise while ascending the roof.
7. Plaintiff 1 asked them what they wanted, and they answered that they needed the house as a lookout. They did not present the Plaintiff with any warrant to seize the roof.
8. The soldiers took up to the roof equipment that included, *inter alia*, a tent and barbed wire which they stretched around the banister.
9. The soldiers remained on the roof of my clients' house until 21 September 1993. During their stay, they rotated during the day, and usually stayed from 07:00 to 23:00.
10. During the soldiers' stay on the roof, they caused damage to the house and harassed and disturbed the Plaintiffs and their families.
11. Following is a specification of the damages caused by the soldiers:
 - a. Wooden beams, iron bars and tiles that were on the roof of the house and were used by the Plaintiff for his work in construction were thrown off the roof, thus causing the wooden beams and the tiles to break. *Estimated damage: NIS 500.*
 - b. The glass panels of the solar water-heater were broken. The panels were fixed at a cost of NIS 90.

The receipt is attached hereto as Exhibit A.
 - c. The water was disconnected as a result of damage caused to the water tank, and the water was dirtied by the soldiers. Consequently, the Plaintiffs did not use the cold water in the house and had to use the tap outside the house. The Plaintiffs were unable to use their washing machine since the cold water was dirty and unusable. Thus the Plaintiffs suffered distress and an annoyance.

- d. Severe damage was caused to the eight marble tiles of the stairs. Attached is an engineer's opinion estimating the damage at *NIS 1,280*, as of the date the damage was caused.

Copies of the opinion and of the translation are attached hereto as Exhibits B/1 and B/2.

- e. The entrance to the second-floor apartment of the Plaintiffs' married son, who lives with his wife and seven-month old baby daughter, was closed up with wooden panels, thus making it difficult for the Plaintiffs to enter the home of their son, and for their son and his wife to exit with the baby to his parents' home.
- f. Noise was caused every day, from the morning hours until late at night. The noise was louder when the soldiers entered and exited in the evening, and with every shift change. The noise was very disturbing, especially to the Plaintiffs' two daughters who are pupils, and who suffered disturbances and difficulties in their studies.
- g. The Plaintiffs were prevented from using their roof.
- h. The Plaintiffs' and their family's movements were restricted by some of the soldiers who appeared in certain shifts.
- i. Litter was caused by garbage thrown off the roof in every direction around the house.
- j. Friends, acquaintances and family members refrained from visiting the Plaintiffs.
- k. Plaintiff 2, who has suffered for years from blood pressure problems, was vastly distressed.
- A medical confirmation attesting to her medical condition is attached hereto as Exhibit C.
- l. Two lamps were removed from the staircase.
- m. Damage was caused to the roof and ceiling of the house – where the tent was put up, holes were made in the roof, through which water leaks in on rainy days. This damage was discovered by the Plaintiffs later, after the rain started and their ceiling began to leak. Repairing the damage is estimated at approximately *NIS 500*.

Total specific damages: *NIS 2,370*.

12. The Plaintiffs filed a complaint with the police.
A copy of the complaint-filing confirmation is attached hereto as Exhibit D.
13. On 11 October 1993, the Plaintiffs turned to Defendant 2's Insurance and Claims Unit through their counsel and demanded compensation for some of the damages that were caused to them and had been discovered until that time.
A copy of the letter is attached hereto as Exhibit E.
14. The Defendants' representative's reply was to compensate the Plaintiffs in the sum of NIS 1,000, which was later raised, following another communication by the Plaintiffs, to NIS 1,150.
Copies of the Defendants' representative's replies are attached hereto as Exhibit F/1 and F/2.
15. The Plaintiffs declined the offer. A response to this effect was sent to the Defendants' representative on 2 October 1994.
A copy of the letter is attached hereto as Exhibit G.
16. The Plaintiffs will claim that the Defendants are liable to compensate them for the specific damages caused to their house, and for the distress and harassment they suffered through no fault of their own.
17. The Plaintiffs shall claim that the act of seizing the house, that was illegal, and without going into arguments against the seizure, caused the residents of the house distress and inconvenience. The Plaintiffs will claim that even had the soldiers taken all reasonable and necessary measures, *which they did not*, the fact is that the seizure would have inconvenienced the Plaintiffs and limited their normal lives. The mere presence of the soldiers on the Plaintiffs' roof caused unnecessary damage and distress.
18. The Plaintiffs shall further claim that the soldiers' conduct was unreasonable, contrary to the rules and negligent, due to which the Plaintiffs turned to the Military Advocate General in the Central Command, through their attorney, in a request to investigate this behavior. An investigation file, number INV: 6531 127-D, was opened, but the investigation has not yet come to an end.
19. The Plaintiffs will claim that all of the damages caused to their house, as specified in Article 11 above, could have been prevented, that the soldiers could have avoided them, and that seizing the roof of the house did not justify the damage.

In addition, they will claim that making loud noise and disturbing the residents of the house were unnecessary and avoidable.

20. The Plaintiffs will claim that the Honorable Court has the territorial and the subject matter jurisdiction to hear the Complaint.
21. In view of all of the aforesaid, the Honorable Court is moved to summon the Defendants and to charge them with compensating the Plaintiffs in the specific sum of NIS 2,370 plus compensation for distress and harassment, in the sum of NIS 5,000, in the total of NIS 7,370, plus lawful indexation and interest from the date the damages were caused until the date of actual payment in full.

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Badrah G. Huri, Att.

Counsel for the Plaintiffs

Jerusalem, 12 April 1995

[Opening date: 27 April 1995]