

SECOND DIVISION

[G.R. No. 125018, April 06, 2000]

REMMAN ENTERPRISES, INC., PETITIONER, VS. COURT OF APPEALS AND CRISPIN E. LAT, RESPONDENTS.

DECISION

BELLOSILLO, J.:

REMMAN ENTERPRISES, INC. (REMMAN), and CRISPIN E. LAT are adjoining landowners in *Barangay Bugtong Na Pulo*, Lipa City. The land of Lat containing an area of 1.8 hectares is agricultural and planted mostly with fruit trees while REMMAN occupies a land area of fifteen (15) hectares six (6) hectares of which are devoted to its piggery business. REMMAN's land is one and a half (1½) meters higher in elevation than that of respondent Lat.

Sometime in July 1984 Lat noticed that REMMAN's waste disposal lagoon was already overflowing and inundating one-fourth (1/4) of Lat's plantation. He made several representations with REMMAN but they fell on deaf ears. On 14 March 1985, after almost one (1) hectare of Lat's plantation was already inundated with water containing pig manure, as a result of which the trees growing on the flooded portion started to wither and die, Lat filed a complaint for damages with preliminary mandatory injunction against REMMAN. Lat alleged that the acidity of the soil in his plantation increased because of the overflow of the water heavy with pig manure from REMMAN's piggery farm.

REMMAN denied all the allegations of Lat and raised as an affirmative defense that measures such as the construction of additional lagoons were already adopted to contain the waste water coming from its piggery to prevent any damage to the adjoining estates.

After conducting an ocular inspection and evaluating the evidence of both parties the Regional Trial Court found that indeed REMMAN's waste disposal lagoon overflowed with the contaminated water flooding one (1) hectare of Lat's plantation. The waste water was ankle-deep and caused death and destruction to one (1) jackfruit tree, fifteen (15) coconut trees, one hundred twenty-two (122) coffee trees, and an unspecified number of mango trees, bananas and vegetables. As a consequence, the trial court ordered REMMAN to indemnify Lat P186,975.00 for lost profits for three (3) crop years and P30,000.00 as attorney's fees. [1]

The decision of the court *a quo* was affirmed *in toto* by the Court of Appeals. [2]

In this *Petition for Review on Certiorari* REMMAN prays that we pass upon the findings of the trial court as well as of the appellate court. REMMAN insists that factual findings of lower courts may be passed upon, reviewed and reversed: (a) when the conclusion is a finding grounded entirely on speculation, surmises or

conjectures; (b) when the inference made is manifestly mistaken, absurd or impossible; (c) when there is grave abuse of discretion; (d) when the judgment is based on a misapprehension of facts; (e) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; (f) when the conclusions of the Court of Appeals are not supported by the evidence on record; (g) when facts of substance were overlooked which, if correctly considered, might have changed the outcome of the case; and, (h) when the findings of the Court of Appeals are not in accord with what reasonable men would readily accept are the correct inferences from the evidence extant in the records. [3]

Indeed, in the abovementioned instances, the factual milieu of a particular case may be passed upon, reversed or modified by this Court. But examination of the record reveals that all the above instances are unavailing. From this point of view alone the instant petition is dismissible. Nevertheless, we shall discuss them hereunder to dispose finally of the contentions of REMMAN.

First, REMMAN argues that its liability for the damages suffered by Lat was not clearly established.

We disagree. During the ocular inspection conducted by the lower court where representatives of both parties were present, it was established that the waste water containing pig manure was continuously flowing from REMMAN's piggery farm to Lat's plantation. The water was ankle-deep and flooded one (1) hectare of Lat's plantation. The overflow of the "acidic, malodorous and polluted water" continued from June 1984 to March 1985 thus destroying one (1) jackfruit tree, fifteen (15) coconut trees, one hundred and twenty-two (122) coffee trees, and an unspecified number of mango trees, bananas and vegetables. [4]

In addition, the appellate court found that there was indeed negligence on the part of REMMAN which directly caused the damage to the plantation of Lat. Thus -

x x x Negligence was clearly established. It is uncontroverted that the land of appellee was flooded on account of the overflow of acidic, malodorous and polluted water coming from the adjacent piggery farm of appellant sometime in May 1984. This resulted in the impairment of the productivity of appellee's land as well as the eventual destruction and death of several fruit trees, such as coconuts, coffee, jackfruits, bananas and other plants x x x Appellant cannot avoid liability because their negligence was the proximate cause of the damage. Appellee's property was practically made a catch-basin of polluted water and other noxious substances emptying from appellant's piggery which could have been prevented had it not been for the negligence of appellant arising from its: (a) failure to monitor the increases in the level of water in the lagoons before, during and after the heavy downpours which occurred during the rainy months of 1984; (b) failure to augment the existing lagoons prior to the incident, notwithstanding the fact that at the time of the flooding, the piggery had grown to a capacity of 11,000 heads, and considering that it was reasonably foreseeable that the existing waste disposal facilities were no longer adequate to accommodate the increasing volume