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cold rolled sheets was ₱192,000.00 and the incurred cutting cost was ₱2,448.00, for a total value of ₱194,448.00.[52] Thus, the award for actual damages must be reduced by ₱417.00.

IN VIEW WHEREOF, the April 26, 1995 Decision of the Regional Trial Court of Quezon City (Branch 92), in Criminal Case No. Q-92-30833, as amended by the Order dated August 15, 1995, is AFFIRMED subject to the modification that the actual damages is reduced to ₱194,448.00.

SO ORDERED.

Davide, Jr., C.J., Kapunan, Pardo, and *Ynares-Santiago, JJ.*, concur.

SECOND DIVISION

[G.R. No. 125018. April 6, 2000]

REMMAN ENTERPRISES, INC., *petitioner, vs.* **COURT OF APPEALS and CRISPIN E. LAT,** *respondents.*

SYNOPSIS

Petitioner Remman Enterprises, Inc. (REMMAN) and private respondent Crispin E. Lat are adjoining land owners. 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 (1 1/2) meters higher in elevation than that of respondent Lat. Lat sued REMMAN for damages because the waste disposal lagoon of the latter overflowed and inundated almost one (1) hectare of Lat's plantation. 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. After conducting an ocular inspection

[52] TSN, William Hilo, August 24, 1992, p. 17.

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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. As a consequence, the trial court ordered REMMAN to indemnify Lat of ₱186,975.00 for lost profits for three (3) crop years and ₱30,000.00 as attorney's fees. The decision of the court *a quo* was affirmed *in toto* by the Court of Appeals. Hence, the present petition.

The Supreme Court denied the petition and affirmed both the decisions of the Regional Trial Court and the Court of Appeals. It is crystal clear that REMMAN is directly accountable to Lat for the damages sustained by him. The negligence of REMMAN in maintaining the level of waste water in its lagoons has been satisfactorily established. The Court also rejected REMMAN's defense of fortuitous event. The Court adopted the opinion of the trial court that even assuming that the heavy rains constituted an act of God, by reason of REMMAN's negligence, the fortuitous event became humanized, rendering it liable for the ensuing damages. On the production of income tax returns issue, the Court ruled the tax returns *per se* could not reflect the total amount of damages suffered by Lat, as income losses from a portion of the plantation could be offset by any profit derived from the rest of the plantation or from other sources of income. Conversely, losses incurred from other sources of income would be totally unrelated to the income from the particular portion of the plantation flooded with waste matter coming from REMMAN's piggery.

SYLLABUS

1. **CIVIL LAW; DAMAGES; ACTUAL OR COMPENSATORY DAMAGES; TAX RETURNS *PER SE* COULD NOT REFLECT THE TOTAL AMOUNT OF DAMAGES SUFFERED BY PRIVATE RESPONDENT, AS INCOME LOSSES FROM PORTION OF PLANTATION COULD BE OFFSET BY PROFIT DERIVED FROM REST OF PLANTATION OR FROM OTHER SOURCES OF INCOME.—** REMMAN argues that the trial court as well as the Court of Appeals should not have rejected its request for the production of Lat's income tax returns. According to REMMAN had Lat's income tax returns have been produced, the issue of the alleged damages suffered by Lat would have been settled. This

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argument is moot, if not trite. For this matter has been laid to rest when we affirmed the Court of Appeals' decision in an earlier case involving the same parties. In sustaining the trial court's quashal of the subpoena *duces tecum* previously issued compelling Lat to produce his income tax returns for the years 1982-1986, the appellate court explained that the production of the income tax returns would not necessarily serve to prove the special and affirmative defenses set up by REMMAN nor rebut Lat's testimony regarding the losses he sustained due to the piggery. The tax returns *per se* could not reflect the total amount of damages suffered by Lat, as income losses from a portion of the plantation could be offset by any profit derived from the rest of the plantation or from other sources of income. Conversely, losses incurred from other sources of income would be totally unrelated to the income from the particular portion of the plantation flooded with waste matter coming from REMMAN's piggery.

2. ID.; ID.; ID.; DEFENSE OF FORTUITOUS EVENT REJECTED; EVEN ASSUMING THAT HEAVY RAINS CONSTITUTED ACT OF GOD, BY REASON OF PETITIONER'S NEGLIGENCE, FORTUITOUS EVENT BECAME HUMANIZED, RENDERING PETITIONER COMPANY LIABLE FOR ENSUING DAMAGES.— REMMAN complains that the damages, if any, were due to a fortuitous event. Again, we cannot agree with petitioner. We defer instead to the findings and opinions expressed by the lower courts — Even assuming that the heavy rains constituted an act of God, by reason of their negligence, the fortuitous event became humanized, rendering appellants liable for the ensuing damages. In *National Power Corporation v. Court of Appeals,* 233 SCRA 649 (1993), the Supreme Court held: Accordingly, petitioners cannot be heard to invoke the act of God or *force majeure* to escape liability for the loss or damage sustained by private respondents since they, the petitioners, were guilty of negligence. This event then was not occasioned exclusively by an act of God or *force majeure*; a human factor – negligence or imprudence – had intervened. The effect then of the *force majeure* in question may be deemed to have, even if only partly, resulted from the participation of man. Thus, the whole occurrence was thereby humanized, as it were, and removed from the rules applicable to acts of God. As regards the alleged natural easement imposed upon the property of appellee, resort to pertinent provisions of applicable law is imperative. Under the Civil Code, it is provided:

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> Art. 637. Lower estates are obliged to receive the waters which naturally and without the intervention of man descend from the higher estates, as well as the stones or earth which they carry with them. The owner of the lower estate cannot construct works which will impede this easement; neither can the owner of the higher estate make works which will increase the burden. A similar provision is found in the Water Code of the Philippines (P.D. No. 1067), which provides: Art. 50. Lower estates are obliged to receive the waters which naturally and without the intervention of man flow from the higher estates, as well as the stones or earth which they carry with them. The owner of the lower estate cannot construct works which will impede this natural flow, unless he provides an alternative method of drainage; neither can the owner of the higher estate make works which will increase this natural flow. As worded, the two (2) aforecited provisions impose a natural easement upon the lower estate to receive the waters which naturally and without the intervention of man descend from the higher estates. However, the waters which flow from a higher estate are those which are artificially collected in man-made lagoons, any damage occasioned thereby entitles the owner of the lower or servient estate to compensation.

APPEARANCES OF COUNSEL

Venice A. Andaya for petitioner.
*Maroni*lla & *Maronilla Law Offices* for private respondent.

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 (1 1/2) 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

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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 ₱186,975.00 for lost profits for three (3) crop years and ₱30,000.00 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;

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[1] Decision penned by Judge Enrico A. Lanzanas, RTC-Br. 13, Lipa City, Civil Case No. V-408; RTC Records, pp. 539-559.

[2] Decision penned by Justice Oswaldo D. Agcaoili, concurred in by Justices Justo P. Torres, Jr., and Eubulo G. Verzola, CA-G.R. CV 37720; CA Records, pp. 144-162.

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(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

[3] Petition; *Rollo*, pp. 6-7.

[4] Original Records, p. 211.

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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 of waste matters in such a big farm; and more importantly, (c) the repeated failure to comply with their promise to appellee.[5]

Second, REMMAN argues that the trial court as well as the Court of Appeals should not have rejected its request for the production of Lat's income tax returns. According to REMMAN had Lat's income tax returns been produced, the issue of the alleged damages suffered by Lat would have been settled.

This argument is moot, if not trite. For this matter has been laid to rest when we affirmed the Court of Appeals' decision in an earlier case involving the same parties.[6] In sustaining the trial court's quashal of the subpoena *duces tecum* previously issued compelling Lat to produce his income tax returns for the years 1982-1986, the appellate court explained that the production of the income tax returns would not necessarily serve to prove the special and affirmative defenses set up by REMMAN nor rebut Lat's testimony regarding the losses he sustained due to the piggery. The tax returns *per se* could not reflect the total amount of damages suffered by Lat, as income losses from a portion of the plantation could be offset by any profit derived from the rest of the plantation or from other sources of income. Conversely, losses incurred from other

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[5] CA Records, p. 158.

[6] See Resolution of the Third Division dated 14 January 1991 in G.R. No. 95561; RTC Records, pp. 496-497.

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sources of income would be totally unrelated to the income from the particular portion of the plantation flooded with waste matter coming from REMMAN's piggery.[7]

Third, REMMAN contends that the damages allegedly sustained by Lat have not been satisfactorily established.

We are not convinced. The factual findings of the court *a quo* rightly support its conclusions on this respect —

> Coming now to the issue of damages, We find appellant's allegations not well-taken. Appellant contends that actual and compensatory damages require evidentiary proof, and there being no evidence presented as to the necessity of the award for damages, it was erroneous for the lower court to have made such award. It must be remembered that after the ocular inspection, the court *a quo* rendered an inventory of dead and rotten trees and plants found in appellee's property. Appellee also testified on the approximate annual harvest and fair market value thereof. Significantly, no opposition or controverting evidence was presented by appellant on the matter. Hence, appellant is bound thereby and cannot now be heard to complain. As correctly held by the court *a quo:*
>
> > An ocular inspection has been conducted by the trial court. The inventory of the trees damaged and the itemized valuation placed therein by private respondent after the ocular inspection which is not rebutted by the petitioner, is the more accurate indicator of the said amount prayed for as damages. If the valuation is indeed unreasonable, petitioner should present controverting evidence of the fair market value of the crops involved. The trial court held that the private respondent himself had been subjected to extensive cross and re-cross examination by the counsel for the petitioner on the amount of damages.[8]

Finally, REMMAN complains that the damages, if any, were due to a fortuitous event.

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[7] Decision penned by Associate Justice Minerva P. Gonzaga-Reyes (now a Member of this Court), concurred in by Associate Justices Ricardo J. Francisco (now retired Member of this Court) and Salome A. Montoya (now Presiding Justice of the Court of Appeals), CA-G.R. SP No. 20537, prom. 29 June 1990; *id.*, pp. 487-490.

[8] CA *Rollo*, pp. 161-162.

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Again, we cannot agree with petitioner. We defer instead to the findings and opinions expressed by the lower courts —

> Even assuming that the heavy rains constituted an act of God, by reason of their negligence, the fortuitous event became humanized, rendering appellants liable for the ensuing damages. In *National Power Corporation v. Court of Appeals,* 233 SCRA 649 (1993), the Supreme Court held:
>
> > Accordingly, petitioners cannot be heard to invoke the act of God or *force majeure* to escape liability for the loss or damage sustained by private respondents since they, the petitioners, were guilty of negligence. This event then was not occasioned exclusively by an act of God or *force majeure*; a human factor — negligence or imprudence — had intervened. The effect then of the *force majeure* in question may be deemed to have, even if only partly, resulted from the participation of man. Thus, the whole occurrence was thereby humanized, as it were, and removed from the rules applicable to acts of God.
>
> As regards the alleged natural easement imposed upon the property of appellee, resort to pertinent provisions of applicable law is imperative. Under the Civil Code, it is provided:
>
> > Art. 637. Lower estates are obliged to receive the waters which naturally and without the intervention of man descend from the higher estates, as well as the stones or earth which they carry with them.
> >
> > The owner of the lower estate cannot construct works which will impede this easement; neither can the owner of the higher estate make works which will increase the burden.
>
> A similar provision is found in the Water Code of the Philippines (P.D. No.1067), which provides:
>
> > Art. 50. Lower estates are obliged to receive the water which naturally and without the intervention of man flow from the higher estates, as well as the stones or earth which they carry with them.
> >
> > The owner of the lower estate cannot construct works which will impede this natural flow, unless he provides an alternative method of drainage; neither can the owner of the higher estate make works which will increase this natural flow.

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As worded, the two (2) aforecited provisions impose a natural easement upon the lower estate to receive the waters which naturally and without the intervention of man descend from higher states. However, where the waters which flow from a higher estate are those which are artificially collected in man-made lagoons, any damage occasioned thereby entitles the owner of the lower or servient estate to compensation.[9]

On the basis of the foregoing discussion, it is crystal clear that REMMAN is directly accountable to Lat for the damages sustained by him. The negligence of REMMAN in maintaining the level of waste water in its lagoons has been satisfactorily established. The extent of damages suffered by Lat remains unrebutted; in fact, has been proved.

WHEREFORE, the petition is *DENIED*. The 19 October 1995 *Decision* of the Court of Appeals affirming that of the Regional Trial Court-Br. 16, Lipa City, holding petitioner Remman Enterprises, Inc. (REMMAN) liable to private respondent Crispin E. Lat for damages and to indemnify the latter ₱186,975.00 for lost profits for three (3) crop years and ₱30,000.00 as attorney's fees, is *AFFIRMED*. Costs against petitioner.

SO ORDERED.

Mendoza, Quisumbing, Buena, and *De Leon, Jr., JJ.*, concur.

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[9] *Id.*, pp. 159-160.