

Title: ****Linda Rana vs. Teresita Lee Wong, et al.****

Facts:

This case consolidates petitions for review on certiorari against the decisions of the Court of Appeals (CA) and the Regional Trial Court (RTC) of Cebu City, stemming from disputes over property development and alleged encroachments in Peace Valley Subdivision, Lahug, Cebu City. Teresita Lee Wong and the Spouses Shirley and Ruben Ang Ong (collectively, Wong, et al.) co-owned a residential land (Wong-Ong property), facing a subdivision road. Opposite this, the adjacent lots belonged to Spouses Wilson and Rosario Uy (Uy property) and Spouses Reynaldo and Linda Rana (Rana property), with the Rana property higher than the Uys'. In 1997, the Ranases elevated a portion of the road (subject portion) without consultation, causing access difficulties for Wong, et al. and also backfilled a portion of their property, affecting the Uys' fence.

Legal battles ensued when Wong, et al. filed a Complaint for Abatement of Nuisance with Damages, and the Ranases filed a Complaint for Recovery of Property and Damages due to an alleged encroachment by the Uys. The RTC appointed commissioners for property boundaries verification, which led to a complex series of findings across the two cases. The CA affirmed the RTC's decision, which essentially found wrongdoing on both sides without granting relief to either.

Issues:

- Whether the elevation and cementation of the road portion and the backfilling constituted nuisances per se or per accidens, justifying summary abatement or requiring judicial intervention.
- Whether the alleged property encroachment by the Uys substantiated the Ranases' claims for recovery of property and damages.

Court's Decision:

The Supreme Court found the elevated road portion to not be a nuisance per se but per accidens, which cannot be summarily abated without judicial intervention. Therefore, Wong, et al.'s demolition of the portion was unwarranted, making them liable for damages. However, these damages were offset by the damages their actions caused to the Ranases. For the backfilling issue, the Court affirmed the need for the Ranases to construct a retaining wall, as per technical recommendations, to prevent damage to the Uys' property. Regarding Civil Case No. CEB-21296, the Court found that the Uys did encroach upon the Ranases' property and ordered the return of the encroached portion, upon which the

construction of the retaining wall by the Ranases would be contingent.

Claims of malicious prosecution and demands for moral, exemplary damages, attorney's fees, and litigation expenses were denied for lack of substantial proof of malice or bad faith.

Doctrine:

The Court reiterated the distinction between a nuisance per se and a nuisance per accidens, emphasizing that judicial intervention is necessary for the abatement of the latter. Furthermore, it highlighted that the rightful use of property and subsequent responsibilities when modifications affect neighboring properties must adhere to legal processes and considerations for the rights of all parties involved.

Class Notes:

- Nuisance per se vs. Nuisance per accidens: A nuisance per se is harmful in itself and may be abated without judicial intervention, whereas a nuisance per accidens requires a determination of its condition as a nuisance due to circumstances that may necessitate judicial intervention.
- Damages: Nominal and temperate damages may be awarded to recognize rights violated and for pecuniary loss established but uncertain in amount, respectively.
- Property Encroachment: The identification of property and ownership is critical in recovery actions, wherein the aggrieved party needs only to prove these elements.

Historical Background:

This case reflects the complexities of suburban development where alterations to shared spaces or property borders lead to disputes. It reaffirms the judicial system's role in resolving such disputes, highlighting the need for both clear regulatory guidelines and consideration of community relations in property development and maintenance.