



My neighbour is harassing me

Your relationship with your neighbour is tense. You think that he is harassing you and overstepping his property rights. What are the limits with respect to property rights? Can you receive compensation?

THE FACTS

A man and his wife purchase and move in to a new house in 1992. They have no problems with their neighbour until 1998. In that year, however, one event puts an end to their cordial relations. It starts with the couple chasing their neighbour's cat away from their property. From then on, the neighbour regularly walks back and forth in front of their house, and bothers them when they leave their house, depriving them of the full enjoyment of their property. Further, he leaves his dog's excrement on their property line. As a result, the couple purchase a tape recorder and video camera in order to make an audio-visual record of their neighbour's abusive remarks and unpleasant gestures. In his defence, the neighbour claims that he too is a victim of abuse and rude gestures on the part of the couple. With respect to his frequent pacing in front of the couple's house, he claims that, as a retired person, he is always outside and takes regular walks. He claims to have been very disturbed by the couple's formal notice of complaint for damages in the amount of \$22,000, and by the criminal complaint. The plaintiffs claim \$30,960 and the respondent claims for \$7,000.

THE ISSUE

Have both parties abused their property rights?

THE DECISION

The judge allows the action for damages and interest. She sentences both parties to pay damages and interest such that by compensating each other, the parties are even and the claims discharged.

THE GROUNDS

According to the judge, a neighbour abuses his or her property rights when the use of his right causes harm to others exceeding normal neighbourhood annoyances. Property rights and private rights are both recognized by the Charter of Rights and Freedoms. On the one hand in this case, it was proved that the neighbour did not respect the couple's private life because, during his frequent walks, he would observe their house in a bothersome manner. The neighbour also abused his property rights by leaving his dog's excrement at the edge of their property. On the other hand, both parties are at fault with respect to insults, because both parties engaged in the practice. Finally, with respect to the video proof, the judge concluded that it was clear that the plaintiffs avoided recording themselves making insulting remarks or unpleasant gestures. The judge sentenced each party to pay the other \$2,000 for infringement of privacy, and for abuse of rights, as well as \$1,000 in punitive damages.

References

Légaré v. Flammand C.Q. (Québec), 200-22-023709-033, May 31, 2004, Judge: A. Laberge. J.E. 2004-1482.

Civil Code of Québec, (L.Q. 1991, c. 64), art. 3, 7, 35, 36 and 976.

The judgement discussed in this article was rendered based on the evidence submitted to the court.

Each situation is unique. If in doubt, we suggest you consult a legal aid lawyer.

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