CROPS, TREES AND ROCKS

[Read pages 514-520]

Problems

I. a) Owner planted acres of soybeans in late April. On July 15, an aerial cropduster sprayed the herbicide Paraquat on a nearby swamp. The drift destroyed the entire field of soybeans. At the time of spraying, the soybeans are knee-high. Farmland rents for approximately $40/acre in this area. It costs owner $60/acre to farm soybeans ($45 production cost, $15 to harvest and market). (Soybean yields averaged 50 bushels per acre in last 3 years and have been selling for $8/bushel.) The crop is usually harvested in late October. What are the damages? (§ 30-4)

b) When the case is tried in December, what evidence affecting crop values should be admitted?

c) Suppose the drift occurred in February, before planting or even preparation for planting? What agricultural information do you need?

d) Suppose the drift of herbicide occurred on May 25 just after the soybeans had emerged from the ground?

e) Suppose the drift occurred on June 28, when it was too late to replant?

f) Considering the above examples from an agricultural perspective, should any special damages be considered?

See Brown v. Chapman, 289 Ark. 88, 709 S.W.2d 404 (1986)
(187 acres of soybeans)

See J.L. Wilson Farms v. Wallace, 267 Ark. 643, 590 S.W.2d 42
(Ark. App. 1979) (297 acres of cotton).

II. Would your answers to (I) change if the crop were perennial (for example, apples or pecans) and did not need to be replanted each year? A mature pecan tree in southeast Arkansas will produce 600 pounds of pecans each year, yielding perhaps $1000, with the only annual cost being the application of a fungicide in early May. Suppose Stam (a herbicide) is sprayed on a rice field a half mile away and blows onto the pecan orchard, killing the crop for the year but not damaging the trees.

III. Floyd has a beautiful 60-foot red maple tree in the middle of his front yard. The tree shades his house through the hottest part of the day and saves a considerable amount on Floyd's air conditioning bill. The tree has been the center of his family's activities for 2 generations.

a) Contractor in the process of widening the street in front of Floyd's house cuts down the maple tree by mistake. What remedy does Floyd have? What other facts are needed? § 30-3

b) What if Floyd intended to cut the tree down himself, but hadn't done so because of the cost? He had been concerned that it would fall on his house during high winds.

c) What if the maple were only five years old?

d) Suppose it was an apple tree?

See Bowman v. McFarlin, 1 Ark. App. 235, 615 S.W.2d 383 (1981) (approximately 40 oak, pine and dogwood trees with diameters of 4-12").

See White River Rural Water District v. Moon, 310 Ark. 624, 839 S.W. 2d (1992) (one post oak tree).

IV. Tom Trespasser enters upon the land of the Georgia Pacific Corporation, harvests and removes pine trees, and sells them to a local mill, which converts them to lumber.

What are the remedies under Arkansas law? Read pages 517-519. § 30-8

(1) a tort remedy

(2) the common law

(3) § 15-32-301

(4) § 18-60-102

(5) In addition to one of the above, what else might be applicable?

On what basis would the plaintiff select a remedy?

V. Theresa Trespasser intrudes on plaintiff's property and removes gravel. How are damages measured? Read pages 515-517. § 30-9

(1) Suppose defendant is in good faith? Payne, page 518

(a)

(b)

(2) Suppose defendant is in bad faith?

(a) § 18-60-102

(b)

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