SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0604-16T1

MORRIS PLAINS HOLDING VF, LLC,

Plaintiff-Respondent,

v.

MILANO FRENCH CLEANERS, INC. and ALFONSO MEGHNAGI,

Defendants,

and

VITO MEGHNAGI,

Defendant-Appellant.

Submitted April 10, 2018 – Decided April 20, 2018

Before Judges Fisher and Moynihan.

On appeal from Superior Court of New Jersey, Law Division, Morris County, Docket No. L-1303-13.

Lindabury, McCormick, Estabrook & Cooper, PC, attorneys for appellant (Vito A. Pinto, of counsel and on the brief).

Cole Schotz PC, attorneys for respondent (David M. Kohane and Wendy F. Klein, of

counsel; David M. Kohane, Wendy F. Klein and Elizabeth A. Carbone, on the brief).

PER CURIAM

In this appeal, we consider the imposition of Spill Act[1] liability on defendant Vito Meghnagi, the sole shareholder of an entity that operated a dry-cleaning business. Finding no error in the judge's determination at the conclusion of a nonjury trial that Meghnagi was a responsible party, we affirm.

Plaintiff Morris Plains Holding VF owns a shopping center in Morris Plains. In 1987, defendant Milano French Cleaners Inc. (Milano) leased space in the shopping center to operate a dry-cleaning business. Meghnagi was then and always has been Milano's only shareholder.

In 1999, tetrachloroethylene (PCE) — a substance commonly used by dry-cleaning businesses — in excess of soil-remediation standards was found on the property. Milano spent approximately $140,000 toward remediating the property over a ten-year period before closing its business in July 2012 and filing for bankruptcy protection. Plaintiff assumed responsibility for remediation and, in May 2013, commenced this suit. After a four-day nonjury trial

[1] Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to -23.24.

in August 2014, the judge found Meghnagi to be a responsible party within the meaning of the Spill Act.

Meghnagi appeals and argues we must reverse because:

> I. THE EVIDENCE AT TRIAL DID NOT ESTABLISH THAT [MEGHNAGI] IS LIABLE AS A "DISCHARGER" UNDER THE SPILL ACT.
>
> II. PURSUANT TO THE SUPREME COURT'S DECISION . . . IN DIMANT,[2] [MEGHNAGI] IS NOT "IN ANY WAY RESPONSIBLE" FOR A DISCHARGE OF HAZARDOUS SUBSTANCES BECAUSE THERE WAS NO EVIDENCE OF A SUFFICIENT NEXUS TO ESTABLISH LIABILITY.
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> III. THE TRIAL COURT ERRED IN IMPOSING JOINT AND SEVERAL LIABILITY ON [MEGHNAGI] PURSUANT TO COUNT I OF ITS COMPLAINT UNDER [N.J.S.A. 58:10-23.11(g)(c)(1)].
>
> IV. THE FACTS AND EVIDENCE DO NOT JUSTIFY THE COURT PIERCING THE CORPORATE VEIL OF MILANO . . . IN ORDER TO IMPOSE PERSONAL LIABILITY ON . . . MEGHNAGI.

We find insufficient merit in these arguments to warrant further discussion in a written opinion, R. 2:11-3(e)(1)(E), and affirm substantially for the reasons set forth by Judge Robert J. Brennan in his oral decision. We add only the following few comments.

The Spill Act imposes liability on persons "in any way responsible" for discharges of hazardous substances:

> Whenever one or more dischargers or persons cleans up and removes a discharge of hazardous substance, those dischargers and persons shall have a right of contribution against all other dischargers and persons in any way responsible

[2] N.J. Dep't of Environ. Prot. v. Dimant, 212 N.J. 153 (2012).

> for a discharged hazardous substance or other persons who are liable for the cost of the cleanup and removal of that discharge of a hazardous substance.
>
> [N.J.S.A. 58:10-23.11f(a)(2)(a).]

Liability arises whether the discharge was the result of "intentional or unintentional" acts or omissions. N.J.S.A. 58:10-23.11b.

In seeking reversal, Meghnagi urges, among other things, a lack of evidence to demonstrate he was "in any way responsible," N.J.S.A. 58:10-23.11f(a)(2)(a), and also that Dimant required a greater nexus to the discharge than shown here. The former contention seems to rest on the absence of a witness claiming to have seen Meghnagi actually discharge PCE onto the property. The judge properly recognized that the lack of what he referred to as a "smoking gun witness" was of no moment. The evidence adduced at trial, upon which the judge was entitled to rely, demonstrated that: Meghnagi's dry-cleaning business was the only such business ever on the property and that it operated there for twenty-five years; the operation used approximately fifteen gallons of PCE annually; the machinery used sat on a concrete floor without drains; there was evidence of spills in that area; and contamination was found in the soil directly beneath the dry-cleaning machine. Based on this and other evidence, plaintiff's

expert concluded that "the source of the soil, groundwater[,] and air . . . is related to Milano French Cleaner's use, and release or discharge, of PCE into the environment[,]" and that there was no "credible mechanism" through which soil contamination could have migrated either horizontally or vertically to a place directly beneath the dry-cleaning operation. In response, Meghnagi provided little more than unfounded speculation about other potential causes of the contamination and his own self-serving denials.

The thorough factual findings rendered by the judge in favor of plaintiff's position were fully supported by the credible evidence. Our standard of review requires deference "unless we are convinced that [the judge's findings] are so manifestly unsupported by or inconsistent with the competent, relevant and reasonably credible evidence as to offend the interests of justice." Rova Farms Resort, Inc. v. Inv'rs Ins. Co. of Am., 65 N.J. 474, 484 (1974); see also D'Agostino v. Maldonado, 216 N.J. 168, 182 (2013). Meghnagi has offered no principled basis upon which we might conclude the findings offend the interests of justice. To the contrary, the credible evidence fully supported the experienced judge's factual determinations.

We also reject Meghnagi's argument that the judge erred in disregarding his corporate veil. The evidence firmly established the judge's findings that Meghnagi was "everything" vis-à-vis this

business: its sole shareholder, the operator of the business, the person responsible for overseeing and handling the PCE used, and the person charged with ensuring legal and regulatory compliance. The fact that the Spill Act broadly imposes liability on persons "in any way responsible," N.J.S.A. 58:10-23.11f(a)(2)(a), demonstrates the legislative intent to expand the scope of liability without regard for corporate veils and the like. Indeed, the Legislature expressly called for a "liberal[] constru[ction]" of the Spill Act "to effect its purposes." N.J.S.A. 58:10-23.11x; see also Marsh v. N.J. Dep't of Envtl. Prot., 152 N.J. 137, 146 (1997). It is quite clear that through its in-any-way-responsible language, the Legislature did not intend that a shareholder of a close corporation could contaminate property, put his corporation in bankruptcy, and walk away from the problem. And Dimant does not suggest otherwise; in Dimant, the Court continued to maintain that only a "reasonable nexus" is necessary to demonstrate a person's responsibility for contribution. 212 N.J. at 182. This test does not impose on plaintiffs an obligation to satisfy proximate-cause principles because, as the Court recognized, such a "precondition" to Spill Act relief "would thwart the salutary public purpose underlying this comprehensive and groundbreaking statutory program." Id. at 181-82. We agree substantially for the thoughtful reasons expressed by Judge Brennan that plaintiff established that

reasonable nexus and that it was appropriate to impose Spill Act liability on Meghnagi.

Affirmed.