FILED
JAN 31 1978
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

ARTHUR L. STRAHL and GENEVIEVE M. STRAHL,

Appellants,

vs.

CLAUD W. HALL and ZELLA P. HALL,

Appellees.

Filed January 31, 1978

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2-59691

Appeal from Polk District Court - Harry Perkins, Jr., Judge.

Plaintiff appeals injunctive relief requiring the parties to remove obstructions to the natural flow of water between their properties and to grade their properties toward the common boundary line to establish positive drainage. - Affirmed.

James M. Sullivan, Des Moines, for Appellants.

Michael Gallagher and E. Ralph Walker, of Thoma, Schoenthal, Davis, Hockenberg & Wine, Des Moines, for Appellees.

Heard by Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

PER CURIAM

Adjacent landowners were ordered by the trial court to remove obstructions to the natural flow of water between their properties. In addition, they were ordered to grade their properties toward the common boundary line to establish positive drainage. Plaintiffs Arthur L. and Genevieve M. Strahl, unhappy with the injunctive relief granted, appeal. We affirm.

The Strahls first argue that the defendant Zella P. Hall's prior Small Claims suit against them is res judicata to Halls' counterclaim for erosion damage to their property. Section 631.1(1) does not confer any equity jurisdiction upon the Small Claims Court. Section 631.1(2) regarding a forcible entry and detainer suit, which is an equitable proceeding under § 648.1(5), is inapplicable to the instant controversy. Therefore, the Halls could not have sought the injunctive relief they request in their counterclaim in the earlier law suit.

We believe Braverman v. Eicher, 238 N.W.2d 331 (Iowa 1976) supports the ruling of the trial court in its entirety. **Braverman** concerned a dispute between adjacent landowners which erupted after the plaintiff began construction of an apartment complex and cut into and graded the embankment along the common lot line he shared with the defendant. The supreme court affirmed the trial court's order of apportionment of the costs of removal of accumulated silt and construction of a drainage pipe extension for the discharge of water. It affirmed also the order that the parties cooperate in selecting an expert to devise a sufficient retaining wall and in implementing that design. The court also affirmed the trial court's denial of damages for erosion damage and the denial of punitive damages.

In the instant case the trial court sitting in equity determined that each neighbor had acted unilaterally and at cross purposes. It's order fully comports with the relief that plaintiff Strahl's expert witness Bellizzi testified would alleviate the drainage problem. We believe in this case, as the supreme court said in **Braverman,** the trial court had fashioned "a just solution of the troublesome problem which these parties were unable or perhaps unwilling to amicably resolve."

AFFIRMED.