"LEGAL RESPONSIBILITY IN POOL OPERATION"

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It is doubtless the law that the proprietor of a natatorium is liable for injuries to a patron resulting from lack of ordinary care in providing for his safety, without fault of the patron; but he is not in any sense an insurer of the safety of patrons, and the death of a patron within his premises does not cast upon him the burden of excusing himself from any presumption of negligence.

And it was held accordingly, in Bertalot v. Kinnare, 72 Ill. App.52, that there could be no recovery for the death by drowning of a fifteen-year-old boy in the defendant's natatorium, where it appeared merely that he was last seen alive in the water at the shallow end of the pool, and some ten or fifteen minutes later was discovered unconscious and perhaps already lifeless, at the bottom of the pool, all efforts to resuscitate him being without avail.

The proprietor of a bathing establishment owes to his customers a duty to exercise reasonable care to maintain the premises in a safe condition; but he does not insure the safety of his patrons against accident; and his duty to patrons is satisfied when he uses reasonable care to maintain the premises in a safe condition for their proper use by the patrons. Rom. v. Huber (1919) 93 N.J.L. 360, 108 Atl. 361, affirmed in (1920) 94 N.J.L. 258, 109 Atl.504.

Proprietors of a bathing resort, in discharging the duty of ordinary care for the safety of patrons, may be obliged to keep some one on duty to supervise bathers and rescue any apparently in danger; and may also be held liable for negligence if, on information that a bather is missing, they are tardy in instituting search. Thus, in Brotherton v. Manhattan Beach Improv. Co. (1896) 48 Neb. 463, 33 L.R.A. 599, 58 Am.St.Rep. 709, 67 N.W. 479, affirmed on rehearing in (1897) 50 Neb. 214 69 N.W. 757, 1 Am. Neg. Rep. 115, an action against the company which maintained a bathing resort, for the death of a patron by drowning, where there was evidence that the resort was on a lake shore, was frequented by an average of 10,000 bathers a month, and the evidence failed to show that the company had any guard or attendant to watch over the bathers, or to rescue them if in danger, and also showed that, when it was notified of a bather's disappearance, it did not institute immediate search, although the evidence warranted an inference that an immediate search would have resulted in the bather's rescue before death, it was held that the question of negligence should have been submitted to the jury, and that a peremptory instruction for the defendant was erroneous. The court said: "We think it is a reasonable inference that persons of ordinary prudence, conducting a bathing resort frequented by 10,000 people a month, should, in the exercise of ordinary care, keep some one on duty to supervise bathers and rescue any apparently in danger; and, if not, that it is certainly a reasonable inference that persons so situated should, on ascertaining that a person last seen in the water is missing, without a moment's delay, exert every effort to search for that person in the water and not merely advise a youthful companion of the missing person to search on the land and coolly watch the result of such search".

After stating that the rule is well settled that the owners of resorts to which people generally are expressly or by implication invited are legally bound to exercise ordinary care and prudence in the management and maintenance of such resorts, to the end of making them reasonably safe for visitors, the court in Larkin v. Saltair Beach Co. (1905) 30 Utah, 96, 3 L.R.A. (N.S.) 982, 116 Am. St. Rep. 818, 83 Pac.686, 8 Ann.Cas.977, said, regarding the duty of the proprietor of a bathing resort: "And when the business is that of keeping or carrying on a bathing resort, the authorities hold that the proprietors or owners thereof are not only required to exercise that same degree of care and prudence with respect to keeping the premises in a reasonably safe condition, which the law