

SECOND DIVISION

[G.R. No. 195145, February 10, 2016]

MANILA ELECTRIC COMPANY, PETITIONER, VS. SPOUSES SULPICIO AND PATRICIA RAMOS, RESPONDENTS.

DECISION

BRION, J.:

We resolve the petition for review on *certiorari*^[1] assailing the July 30, 2010 decision^[2] of the Court of Appeals (CA) in CA-G.R. CV No. 87843 entitled "*Spouses Sulpicio and Patricia Ramos v. Manila Electric Company*" that affirmed the Regional Trial Court's (RTC) August 22, 2006 decision^[3] in Civil Case No. 99-95975.

The August 22, 2006 RTC decision ordered the Manila Electric Company (MERALCO) to restore the electric power connection of Spouses Sulpicio and Patricia Ramos (*respondents*) and awarded them P2,000,000.00, with legal interest, in total damages.

The Factual Antecedents

MERALCO is a private corporation engaged in the business of selling and distributing electricity to its customers in Metro Manila and other franchise areas. The respondents are registered customers of MERALCO under Service Identification Number (SIN) 409076401.

MERALCO entered into a contract of service with the respondents agreeing to supply the latter with electric power in their residence at 2760-B Molave St., Manuguit, Tondo, Manila. To measure the respondents' electric consumption, it installed the electric meter with serial number 330ZN43953 outside the front wall of the property occupied by Patricia's brother, Isidoro Sales, and his wife, Nieves Sales (*Nieves*), located beside the respondents' house.

On November 5, 1999, MERALCO's service inspector inspected the respondents' electrical facilities and found an outside connection attached to their electric meter. The service inspector traced the connection, an illegal one, to the residence and appliances of Nieves. Nieves was the only one present during the inspection and she was the one who signed the Metering Facilities Inspection Report.

Due to the discovery of the illegal connection, the service inspector disconnected the respondents' electric services on the same day. The inspection and disconnection were done without the knowledge of the respondents as they were not at home and their house was closed at the time.

The respondents denied that they had been, using an illegal electrical connection and they requested MERALCO to immediately reconnect their electric services.

Despite the respondents' request, MERALCO instead demanded from them the payment of P179,231.70 as differential billing.

On December 20, 1999, the respondents filed a **complaint for breach of contract with preliminary mandatory injunction and damages** against MERALCO before the RTC, Branch 40, City of Manila. They prayed for the immediate reconnection of their electric service and the award of actual, moral, and exemplary damages, attorney's fees, and litigation expenses.

In a decision dated August 22, 2006, the RTC ordered MERALCO to reconnect the respondents' electric service and awarded damages as follows:

WHEREFORE, Judgment is rendered directing defendant MERALCO to permanently reconnect immediately the plaintiffs electric services, and for said defendant to pay the following:

1. P100,000.00 as actual or compensatory damages;
2. P1,500,000.00 as moral damages;
3. P300,000.00 as exemplary damages;
4. P100,000.00 as attorney's fees; and,
5. Costs of suit;

with legal interest on the total damages of P2,000,000.00 from the date of this Judgment until fully paid.

SO ORDERED.^[4]

MERALCO appealed the RTC's decision to the CA.

In its assailed July 30, 2010 decision,^[5] the CA denied the appeal for lack of merit and affirmed the RTC's order of reconnection and award for payment of damages. The appellate court held that MERALCO failed to comply not only with its own contract of service, but also with the requirements under Sections 4 and 6 of Republic Act No. 7832, or the *Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994 (R.A. 7832)*, when it resorted to the immediate disconnection of the respondents' electric service without due notice. It also ruled that the respondents were not liable for the differential billing as it had not been established that they knew or consented to the illegal connection or even benefited from it.

MERALCO moved for the reconsideration of the decision, but the CA denied its motion in a resolution^[6] dated **January 3, 2011**. The present petition for review on *certiorari*^[7] was filed with this Court on March 4, 2011, as a consequence.

The Petition

MERALCO argues that under R.A. 7832, it had the right and authority to immediately disconnect the electric service of the respondents after they were

caught *in flagrante delicto* using a tampered electrical installation.

MERALCO also claims that by virtue of their contract of service, the respondents are liable to pay the differential billing regardless of whether the latter benefited from the illegal electric service or not. It adds that this is true even if the respondents did not personally tamper with the electrical facilities.

Finally, MERALCO contends that there is no basis for the award of damages as the disconnection of the respondents' electric service was done in good faith and in the lawful exercise of its rights as a public utility company.

The Respondents' Comment

In their comment^[8] of June 29, 2011, the respondents pray for the denial of the present petition for lack of merit. They argue that the discovery of an outside connection attached to their electric meter does not give MERALCO the right to automatically disconnect their electric service as the law provides certain mandatory requirements that should be observed before a disconnection could be effected. They claim that MERALCO failed to comply with these statutory requirements.

Also, the respondents contend that MERALCO breached its contractual obligations when its service inspector immediately disconnected their electric service without notice. They claim that this breach of contract, coupled with MERALCO's failure to observe the requirements under R.A. 7832, entitled them to damages which were sufficiently established with evidence and were rightfully awarded by the RTC and affirmed by the CA.

Lastly, the respondents argue that they are not liable to MERALCO for the differential billing as they were not the ones who illegally consumed the unbilled electricity through the illegal connection.

The Court's Ruling

We DENY the petition for review on *certiorari* as we find no reversible error committed by the CA in issuing its assailed decision.

The core issue in this case is whether MERALCO had the right to immediately disconnect the electric service of the respondents upon discovery of an outside connection attached to their electric meter.

The distribution of electricity is a basic necessity that is imbued with public interest. Its provider is considered as a public utility subject to the strict regulation by the State in the exercise of its police power. **Failure to comply with these regulations gives rise to the presumption of bad faith or abuse of right.**^[9]

Nevertheless, the State also recognizes that electricity is the property of the service provider. R.A. 7832 was enacted by Congress to afford electric service providers multiple remedies to protect themselves from electricity pilferage. These remedies include the **immediate disconnection of the electric service** of an erring customer, criminal prosecution, and the imposition of surcharges.^[10] However, the service provider must avail of any or all of these remedies within legal bounds, in

strict compliance with the requirements and/or conditions set forth by law.

Section 4(a) of R.A. 7832 provides that the discovery of an outside connection attached on the electric meter shall constitute as *prima facie* evidence of illegal use of electricity by the person who *benefits* from the illegal use *if* the discovery is **personally witnessed and attested to by an officer of the law or a duly authorized representative of the Energy Regulatory Board (ERB)**. With the presence of such *prima facie* evidence, the electric service provider is within its rights to immediately disconnect the electric service of the consumer *after* due notice.

This Court has repeatedly stressed the significance of the presence of an authorized government representative during an inspection of electric facilities, *viz.*:

The presence of government agents who may authorize immediate disconnections go into the essence of due process. Indeed, we cannot allow respondent to act virtually as prosecutor and judge in imposing the penalty of disconnection due to alleged meter tampering. That would not sit well in a democratic country. After all, Meralco is a monopoly that derives its power from the government. Clothing it with unilateral authority to disconnect would be equivalent to giving it a license to tyrannize its hapless customers.^[11] (emphasis supplied)

Additionally, Section 6 of R.A. 7832 affords a private electric utility the right and authority to immediately disconnect the electric service of a consumer who has been caught *in flagrante delicto* doing any of the acts covered by Section 4(a). However, the law clearly states that the disconnection may only be done *after* serving a written notice or warning to the consumer.

To reiterate, R.A. 7832 has two requisites for an electric service provider to be authorized to disconnect its customer's electric service on the basis of alleged electricity pilferage: *first*, an officer of the law or an authorized ERB representative must be present during the inspection of the electric facilities; and *second*, even if there is *prima facie* evidence of illegal use of electricity and the customer is caught *in flagrante delicto* committing the acts under Section 4(a), the customer must still be given due notice prior to the disconnection.^[12]

In its defense, MERALCO insists that it observed due process when its service inspector disconnected the respondents' electric service, *viz.*:

Under the present situation, there is no doubt that due process, as required by R.A. 7832, was observed [when] the petitioner discontinued the electric supply of respondent: there was an inspection conducted in the premises of respondent with the consent of their authorized representative; it was discovered during the said inspection that private respondents were using outside connection; the nature of the violation was explained to private respondents' representative; the inspection and discovery was personally witnessed and attested to by private respondents' representative; **private respondents failed and refused to pay the differential billing amounting to P179,231.70 before their electric service was disconnected.**^[13] (emphasis supplied)

After a thorough examination of the records of the case, we find no proof that MERALCO complied with these two requirements under R.A. 7832. MERALCO never even alleged in its submissions that an ERB representative or an officer of the law was present during the inspection of the respondents' electric meter. Also, it did not claim that the respondents were ever notified beforehand of the impending disconnection of their electric service.

In view of MERALCO's failure to comply with the strict requirements under Sections 4 and 6 of R. A. No. 7832, **we hold that MERALCO had no authority to immediately disconnect the respondents' electric service.** As a result, the immediate disconnection of the respondents' electric service is **presumed to be in bad faith.**

We point out, too, that MERALCO's allegation that the respondents refused to pay the differential billing *before* the disconnection of their electric service is an obvious falsity. MERALCO never disputed the fact that the respondents' electric service was disconnected on November 5, 1999 - the same day as when the electric meter was inspected. Also, MERALCO's demand letter for payment of the differential billing is dated December 4, 1999. Thus, there is no truth to the statement that the respondents first failed to pay the differential billing and only then was their electric service disconnected.

The disconnection of respondents' electric service is not supported by MERALCO's own Terms and Conditions of Service.

In addition, we observe that MERALCO also failed to follow its own procedure for the discontinuance of service under its contract of service with the respondents. We quote in this regard the relevant terms of service:

DISCONTINUANCE OF SERVICE:

The Company reserves the right to discontinue service in case the customer is in arrears in the payment of bills in those cases where the meter stopped or failed to register the correct amount of energy consumed, or failure to comply with any of these terms and conditions or in case of or to prevent fraud upon the Company. **Before disconnection is made in case of or to prevent fraud, the Company may adjust the bill of said customer accordingly and if the adjusted bill is not paid, the Company may disconnect the same.** In case of disconnection, the provisions of Revised Order No. 1 of the former Public Service Commission (now ERC) shall be observed. Any such suspension of service shall not terminate the contract between the Company and the customer.^[14] (emphasis supplied)

There is nothing in its contract of service that gives MERALCO the authority to immediately disconnect a customer's electric connection. MERALCO's contractual right to disconnect electric service arises only after the customer has been notified of his adjusted bill and has been afforded the opportunity to pay the differential billing.

In this case, the disconnection of the respondents' electric service happened on November 5, 1999, while the demand for the payment of differential billing was