

THIRD DIVISION

[G.R. No. 160422, July 05, 2010]

MANILA ELECTRIC COMPANY (MERALCO), PETITIONER, VS. SPS. EDITO AND FELICIDAD CHUA, AND JOSEFINA PAQUEO, RESPONDENTS.

D E C I S I O N

BRION, J.:

Manila Electric Company (*MERALCO* or *petitioner*) assails in this petition for review on *certiorari*^[1] the decision of the Court of Appeals (*CA* or *appellate court*), dated October 20, 2003,^[2] in CA-G.R. SP No. 77034, affirming with modification the March 26, 2003 decision of the Regional Trial Court (*RTC*) of Quezon City, Branch 82, in Civil Case No. Q-97-30503.^[3]

The affirmed RTC decision ordered the petitioner to restore the electric power connection of spouses Edito and Felicidad Chua (*Chuas*) at their residence, and awarded P300,000.00 as moral damages. The CA affirmed the restoration of electric power connection but reduced the awarded moral damages to P100,000.00.

BACKGROUND FACTS

The facts, as found by the RTC and affirmed by the CA, are summarized below.

MERALCO is a utility company engaged in the business of sale and distribution of electricity within its franchise area. The Chuas are the beneficial users at their residence of electric service provided by MERALCO, registered under the name of respondent Josefina Paqueo with Account Number 05091-4038-14. MERALCO installed an electric meter with number Co. No. 33 SPN 46170 in front of the Chuas' home to record the Chuas' electric consumption. *The meter was in a concrete post outside the Chuas' perimeter fence.*^[4]

From June 11, 1996 to September 11, 1996, the Chuas consumed between 231 to 269 kilowatt hours of electricity per month, with their corresponding monthly electric bills ranging from P747.84 to P887.27. In October 1996, the Chuas were surprised to receive an electricity bill for the amount of P4,906.87 for the period of September 11 to October 11, 1996 (*September 1996 bill*). According to this bill, they consumed 1,297 kilowatt hours for this one month period, or approximately 553% higher than their previous monthly bill.^[5] Alarmed by the significant increase, Florence Chua (the Chuas' daughter) went to the MERALCO office to question the bill. Florence paid the bill under protest to avoid disconnection.

On October 31, 1996, MERALCO responded to the Chuas' complaint by sending a representative, Francisco Jose Albano, to their residence to inspect the electric

meter. Albano filed a Meter/Socket Inspection Report stating that he replaced the old meter^[6] and installed a new one^[7] because *the old meter's terminal seal was missing, the cover seal was broken, and the meter had a broken sealing wire.*^[8]

The Chuas were *billed based on the new meter* and its readings from October 11, 1996 to January 24, 1997, with an average usage ranging from 227 to 254 kilowatt hours, with corresponding monthly electric bills ranging from P700.00 to P800.00.^[9]

On January 3, 1997, the Chuas received a letter from MERALCO, stating that:

Our Inspection Office has referred to us for appropriate action the following finding(s) of our service inspectors and meter laboratory technicians after your metering installation at the above address was inspected on OCTOBER 31, 1996:

1. THE TERMINAL SEAL WAS MISSING.
2. THE SEALING WIRE OF THE ERB AND MERALCO LEAD COVER SEALS WAS CUT.
3. THE 1000TH, 100TH AND 10TH DIAL POINTERS OF THE REGISTER WERE OUT OF ALIGNMENT.

Given the above condition(s) and in accordance with the rules implementing Republic Act 7832, you are billed the amount of P183,983.66 (rate charge of P179,353.26 and energy tax of P4,630.40). Furthermore, the company is now allowed to collect Surcharges as a penalty for all Violation of Contract cases apprehended effective January 17, 1995, which would be collected later.

This is a formal demand upon you to pay the above stated amount at this office within ten days from your receipt of this letter; if no settlement is made within the given grace period, your service shall be disconnected and the necessary criminal or civil action initiated against you for violation of Republic Act 7832.^[10]

The Chuas refused to pay as demanded. On January 24, 1997, MERALCO returned to their residence and removed Meter No. 33RZN80082, thereby disconnecting their electric supply.

On February 5, 1997, MERALCO sent the Chuas another demand letter stating that it had re-evaluated the Chuas' case based on field findings and the documents they furnished, and reduced the amount they had to pay from P183,983.66 to P71,737.49.^[11]

On March 11, 1997, the Chuas filed a complaint for mandamus and damages,^[12] praying that they be granted a preliminary mandatory injunction to compel MERALCO to restore the electrical connection to their residence. The Chuas also

asked the court to award them moral and exemplary damages, attorney's fees, and litigation expenses.

After trial, the RTC rendered its decision, whose dispositive portion states:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendant ordering the latter as follows:

- 1) To restore to plaintiffs at their residence at #9 Hukvet St., Area I, Veterans Village, Quezon City their electric power connection and/or services;
- 2) To pay the plaintiffs the sum of P300,000.00 as and by way of moral damages;
- 3) To pay the plaintiffs the sum of P30,000.00 as and by way of attorney's fees;
- 4) To pay the cost of suit.

SO ORDERED.^[13]

MERALCO appealed the trial court's decision to the CA.

The CA affirmed the RTC decision.^[14] The appellate court confirmed that the meter had been tampered, but found that the tampering was mitigated by the Chuas' voluntary act of going to MERALCO to report the possible defect in their meter. The voluntary act, according to the court, constituted good faith as MERALCO would not have discovered the defects in the meter if the Chuas had not reported the matter.

The appellate court also noted that while Section 6 of Republic Act No. 7832 (*RA 7832*), or the "*Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994*," allows MERALCO to immediately disconnect electric service, it may only do so when the owner of the house has either been caught *in flagrante delicto* in any of the acts constituting *prima facie* evidence of illegal use, or has been discovered a second time in any of the enumerated circumstances. In the Chuas' case, they were not caught *in flagrante delicto* as they in fact reported the defect in their meter. This was the first instance, too, that MERALCO had discovered any tampering in the Chuas' meter. Under these circumstances, the appellate court concluded that MERALCO had no legal right to disconnect the Chuas' electrical service.

While upholding the RTC's factual findings, the CA modified the RTC decision by reducing the awarded moral damages from P300,000.00 to P100,000.00.

THE PETITION

MERALCO filed the present petition, raising the following arguments:^[15]

- I. The CA erred in ruling that MERALCO had no right to disconnect the electric service of the Chuas.

II. MERALCO is entitled to collect the differential billing of P183,983.66.

III. Even assuming that MERALCO had no right to disconnect the Chuas' electric service, they are nevertheless not entitled to moral damages in the absence of evidence of damages they sustained.

MERALCO points out that it did not immediately disconnect electric service to the Chuas. It first sent several demand letters explaining the meter tampering and demanding payment for the billed differential in the sum of P183,983.66. It was only after the Chuas refused to pay the differential billing that MERALCO disconnected their electric service.

Additionally, MERALCO contends that based on Section 9 of RA 7832, no writs of injunction shall be issued by any court against any private electric utility exercising its right and authority to disconnect electric service unless there is *prima facie* evidence that the disconnection was made with evident bad faith or grave abuse of authority. Since the Chuas failed to prove MERALCO's evident bad faith in disconnecting their electric service, they are not entitled to an injunctive writ.

MERALCO further posits that the deliberate manipulation of the dial pointers prevented the full and correct billing of the electric energy actually delivered to and consumed by the Chuas. The differential billing represents the monetary equivalent of the electricity used by the Chuas but not registered by the meter.

Lastly, MERALCO maintains that even if it had no right to disconnect the Chuas' electric service, the Chuas nevertheless are not entitled to moral damages. The Chuas did not sustain damages after the disconnection since they sourced their electric supply from another electric meter within the premises.

THE COURT'S RULING

We deny the petition for lack of merit.

***Prima facie evidence of
illegal use of electricity***

MERALCO claims that the meter tampering in this case stands undisputed in the evidence on record. Under RA 7832, the law presumes that the person benefited by the unlawful use of electricity is the perpetrator of the meter tampering. Thus, no need arose for MERALCO to prove that the Chuas actually tampered with their meter; pursuant to Section 4 of RA 7832, Meralco had the right to immediately disconnect the Chuas' electric service.

We find MERALCO's position legally incorrect. Essential to the resolution of this issue is Section 4 of RA 7832, which reads:

SEC. 4. Prima Facie Evidence. -

(a) The presence of any of the following circumstances shall constitute ***prima facie evidence of illegal use of electricity***, as defined in this

Act, by the person benefited thereby, and shall be the basis for: (1) the **immediate disconnection** by the electric utility to such person after due notice, x x x

(iv) The presence of a tampered, broken, or fake seal on the meter, or mutilated, altered, or tampered meter recording chart or graph or computerized chart, graph, or log.

x x x

(viii) x x x *Provided, however,* That the discovery of any of the foregoing circumstances, in order to constitute *prima facie* evidence, **must be personally witnessed and attested to by an officer of the law or a duly authorized representative of the Energy Regulatory Board (ERB).**

To reiterate, the discovery of a tampered, broken, or fake seal on the meter shall only constitute *prima facie* evidence of illegal use of electricity by the person who benefits from the illegal use *if* such 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 such *prima facie* evidence, MERALCO is within its rights to immediately disconnect the electric service of the consumer after due notice.

Section 1, Rule III of the Rules and Regulations Implementing RA 7832 (*IRR*) defines an officer of the law as one "*who, by direct supervision of law or by election or by appointment by competent authority, is charged with the maintenance of public order and the protection and security of life and property, such as barangay captain, barangay chairman, barangay councilman, barangay leader, officer or member of Barangay Community Brigades, barangay policeman, PNP policeman, municipal councilor, municipal mayor and provincial fiscal.*"

The importance of having an authorized government representative present during an inspection was highlighted during the Senate deliberations on RA 7832 when Senator John H. Osmeña, the law's author, explained:

Mr. President, if a utility like MERALCO finds certain circumstances or situations which are listed in Section 2 of this bill to be *prima facie* evidence, **I think they should be prudent enough to bring in competent authority, either the police or the NBI, to verify or substantiate their finding.** If they were to summarily proceed to disconnect on the basis of their findings and later on there would be a court case and the customer or the user would deny the existence of what is listed in Section 2, then they could be in a lot of trouble.^[16]

We emphasized the significance of this requirement in *Sps. Quisumbing v. MERALCO*,^[17] when we said: