

THIRD DIVISION

[G.R. NO. 149052, August 09, 2005]

**VIBRAM MANUFACTURING CORPORATION, PETITIONER, VS.
MANILA ELECTRIC COMPANY, RESPONDENT.**

DECISION

SANDOVAL-GUTIERREZ, J.:

Petition for review on *certiorari* assailing the Decision^[1] of the Court of Appeals dated July 6, 2001 in CA-G.R. CV No. 57431, affirming with modification the Decision of the Regional Trial Court, Branch 122, Caloocan City, in Civil Case No. C-16565.

Records disclose the following facts:

Vibram Manufacturing Corporation, petitioner, is engaged in the business of manufacturing shoe parts. It uses electricity in its operations.

Manila Electric Company, respondent, supplies electricity to petitioner.

In a letter^[2] dated October 22, 1991, respondent demanded payment of P1,408,268.58 representing petitioner's unregistered electrical consumption from September 18, 1990 to September 17, 1991. Petitioner refused to pay, claiming that the electric meter and its installation are defective.

On December 2, 1991, respondent sent petitioner another demand letter, with a warning that should it refuse to pay, the electric supply to its factory will be discontinued.

Apprehensive of respondent's threat, petitioner filed with the Regional Trial Court, Branch 124, Caloocan City, a complaint for damages with prayer for preliminary and/or mandatory injunction^[3] against respondent, docketed as Civil Case No. C-16565.

In an Order^[4] dated July 27, 1994, the trial court issued a writ of preliminary prohibitory injunction.

On August 20, 1997, the trial court rendered a Decision,^[5] the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant ordering the following:

1. That the injunction earlier issued by this Court be made permanent;
2. That defendant pay the plaintiff the sums of:

- a. P50,000.00 as exemplary damages;
- b. P100,000.00 as attorney's fees and litigation expenses.

SO ORDERED."

On appeal, the Court of Appeals, in a Decision dated July 6, 2001, affirmed with modification the trial court's judgment, holding that:

"Appellant submits that the trial court erred in holding that the service agreement in issue is in the nature of a contract of adhesion. On the other hand, appellee counters otherwise because appellant MERALCO is a monopoly whose service contracts with its customers are unilaterally drafted and printed in advance by it and the only participation of its customers is simply to sign or adhere thereto.

We agree with appellee. Notably, the controversy as to whether appellant's service agreement is a contract of adhesion had already been judicially resolved. In *Ridjo Tape & Chemical Corp. vs. Court of Appeals* (286 SCRA 544 [1998]), the Supreme Court had the occasion to declare:

x x x

"These types of contracts have been declared to be binding as ordinary contracts because the party adhering thereto is free to reject it in its entirety."

Appellant next argues that the appellee should pay for the electricity actually consumed but not registered due to a defective meter. And the refusal to pay the assessed amount authorizes the appellant to disconnect electric service as stipulated in the contract. Appellee takes exception insisting that it had not committed any fraud, default nor negligence. Instead, it was defendant who had been negligent in failing to inspect and consequently correct any defects on its meters. Moreover, the alleged defect failed to show that the meter did not register the full amount of energy consumed.

Again, We find merit in appellee's contention. In the case at bar, undisputed is the fact that the unregistered electric consumption was mainly caused by mechanical failure or defects in the meter. x x x

Fittingly, the ruling of the Supreme Court in *Ridjo, supra* (involving the same facts and questions) is on all four to the case at hand:

"Corollarily, it must be underscored that MERALCO has the imperative duty to make a reasonable and proper inspection of its apparatus and equipment to ensure that they do not malfunction, and the due diligence to discover and repair defects therein. Failure to perform such duties constitutes negligence.

x x x

Accordingly, we are left with no recourse but to conclude that