

## SECOND DIVISION

[ G.R. No. 147076, June 17, 2004 ]

### METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM, PETITIONER, VS. ACT THEATER, INC., RESPONDENT.

#### DECISION

##### CALLEJO, SR., J.:

Before the Court is a petition for review on certiorari filed by the Metropolitan Waterworks and Sewerage System (MWSS), seeking to reverse and set aside the Decision<sup>[1]</sup> dated January 31, 2001 of the Court of Appeals in CA-G.R. CV No. 58581, which affirmed the civil aspect of the Decision<sup>[2]</sup> dated May 5, 1997 of the Regional Trial Court of Quezon City, Branch 77, directing the petitioner MWSS to pay the respondent Act Theater, Inc. damages and attorney's fees.

The present case stemmed from the consolidated cases of Criminal Case No. Q-89-2412 entitled *People of the Philippines v. Rodolfo Tabian, et al.*, for violation of Presidential Decree (P.D.) No. 401, as amended by Batas Pambansa Blg. 876, and Civil Case No. Q-88-768 entitled *Act Theater, Inc. v. Metropolitan Waterworks and Sewerage System*. The two cases were jointly tried in the court a quo as they arose from the same factual circumstances, to wit:

On September 22, 1988, four employees of the respondent Act Theater, Inc., namely, Rodolfo Tabian, Armando Aguilar, Arnel Concha and Modesto Ruales, were apprehended by members of the Quezon City police force for allegedly tampering a water meter in violation of P.D. No. 401, as amended by B.P. Blg. 876. The respondent's employees were subsequently criminally charged (Criminal Case No. Q-89-2412) before the court a quo. On account of the incident, the respondent's water service connection was cut off. Consequently, the respondent filed a complaint for injunction with damages (Civil Case No. Q-88-768) against the petitioner MWSS.

In the civil case, the respondent alleged in its complaint filed with the court *a quo* that the petitioner acted arbitrarily, whimsically and capriciously, in cutting off the respondent's water service connection without prior notice. Due to lack of water, the health and sanitation, not only of the respondent's patrons but in the surrounding premises as well, were adversely affected. The respondent prayed that the petitioner be directed to pay damages.

After due trial, the court a quo rendered its decision, the dispositive portion of which reads:

In Criminal Case No. Q-89-2412

WHEREFORE, for failure of the prosecution to prove the guilt of the accused beyond reasonable doubt, the four (4) above-named Accused

are hereby ACQUITTED of the crime charged.<sup>[3]</sup>

In Civil Case No. Q-88-768

...

1. Ordering defendant MWSS to pay plaintiff actual or compensatory damages in the amount of P25,000.00; and to return the sum of P200,000.00 deposited by the plaintiff for the restoration of its water services after its disconnection on September 23, 1988;
2. Defendant's counterclaim for undercollection of P530,759.96 is dismissed for lack of merit;
3. Ordering defendant MWSS to pay costs of suit;
4. Ordering defendant MWSS to pay plaintiff the amount of P5,000.00 as attorney's fees;
5. Making the mandatory injunction earlier issued to plaintiff Act Theater, Inc. permanent.

SO ORDERED.<sup>[4]</sup>

Aggrieved, the petitioner appealed the civil aspect of the aforesaid decision to the CA. The appellate court, however, dismissed the appeal. According to the CA, the court a quo correctly found that the petitioner's act of cutting off the respondent's water service connection without prior notice was arbitrary, injurious and prejudicial to the latter justifying the award of damages under Article 19 of the Civil Code.

Undaunted, the petitioner now comes to this Court alleging as follows:

I

WHETHER OR NOT THE HONORABLE COURT OF APPEAL[S] VALIDLY AFFIRMED THE DECISION OF THE REGIONAL TRIAL COURT IN RESOLVING THE PETITIONER'S APPEAL;

II

WHETHER OR NOT THE HONORABLE COURT OF APPEALS VALIDLY UPHELD THE AWARD OF ATTORNEY'S FEES;

III

WHETHER OR NOT THE HONORABLE COURT OF APPEAL[S] CORRECTLY APPLIED THE PROVISION OF ARTICLE 19 OF THE NEW CIVIL CODE WITHOUT CONSIDERING THE APPLICABLE PROVISION OF ARTICLE 429 OF THE SAME CODE.<sup>[5]</sup>

Preliminarily, the petitioner harps on the fact that, in quoting the decretal portion of the court *a quo's* decision, the CA erroneously typed P500,000 as the attorney's fees awarded in favor of the respondent when the same should only be P5,000. In any case, according to the petitioner, whether the amount is P500,000 or P5,000, the