

SECOND DIVISION

[G.R. No. 150794, August 17, 2004]

**ATTY. ROMEO B. IGOT, PETITIONER, VS. COURT OF APPEALS
AND MANILA ELECTRIC COMPANY (MERALCO), RESPONDENTS.**

DECISION

CALLEJO, SR., J.:

Before us is a petition for mandamus with prayer for a writ of preliminary mandatory injunction filed by petitioner Atty. Romeo B. Igot to compel the respondent Manila Electric Company (Meralco) to comply with the writ of preliminary mandatory injunction^[1] issued by the Court of Appeals in CA-G.R. SP No. 66251.

The Antecedents

On February 24, 1983, the petitioner and the respondent executed a service contract under which the latter would provide electricity to the petitioner's house at No. 1 Lucky Street, Santolan, Pasig City. The respondent installed an electric meter on a Meralco post, along F. Pasco Avenue, Santolan, Pasig City, about fifteen (15) meters away from the petitioner's residence.

On November 13, 1998, the petitioner compiled all his electric bills and discovered that his Meralco statement amounted to only P18.20 for the period of September 24, 1998 to October 26, 1998. Suspicious of the unusual figure, the petitioner inspected the electric meter which the respondent installed near his house and discovered that the Meralco seal was still intact but that the meter had stopped rotating. He sent a letter^[2] to the respondent requesting that his electric meter be checked at the soonest possible time and if found to be defective, demanded that it be replaced.

The petitioner did not receive any reply from the respondent. On February 1, 1999, he was surprised to receive his Meralco electric bill^[3] showing his estimated electrical consumption for the period of December 23, 1998 to January 25, 1999, as amounting to P12,100.30. He wrote the respondent on February 3, 1999, requesting that he be furnished with a detailed computation. The petitioner received a letter^[4] from the respondent on February 6, 1999 demanding the payment of the sum of P111,182.05, within ten days from receipt thereof, on account of the alleged findings of defects in the metering installation which was discovered during an inspection by its employees. Portions of the letter read:

The inspection of your metering installation on January 5, 1999, yielded the following findings of our field personnel:

1. THE LEAD COVER SEALS WERE PULLED OUT FROM THE SEALING WIRE.
2. THE DRIVING GEAR OF THE 2ND SHAFT WAS FILED CAUSING IT TO DISENGAGE PARTIALLY FROM THE DRIVEN GEAR OF THE 3RD SHAFT OF THE REGISTER ASSEMBLY.

Given the above finding(s) and in accordance with Republic Act No. 7832 (Anti-Pilferage of Electricity and Theft of Electric Transmission Lines/Materials Act of 1994) (sic), you are billed the amount of P111,182.05.

Worse, on February 11, 1999, the petitioner received a notice of disconnection^[5] from the respondent, which the latter threatened to implement should he fail to pay the amount of P123,282.35 within the day.

On February 12, 1999, the petitioner filed a complaint for damages with an application for the issuance of a writ of preliminary injunction against the respondent with the Regional Trial Court of Pasig City. The trial court issued a temporary restraining order (TRO).

During the hearing on February 15, 1999, Atty. Angelito Aguila, the counsel of the respondent, manifested that it would not disconnect the petitioner's electric supply until the trial court shall have resolved the issue on the preliminary injunction. The petitioner, in turn, manifested that he was withdrawing his plea for the issuance of a TRO.

However, on July 9, 1999, the electric supply to the petitioner's house was disconnected by the respondent. As a consequence, the petitioner paid the bill on the same day, after being assured by the respondent that it would order the reconnection the following day, which was a Saturday. The weekend passed, but the electricity at the petitioner's residence remained unrestored, and his children personally went to the respondent to plead their cause. However, the respondent's employees, namely, Atty. Alfonso Lacap and Rolando Dela Paz, disallowed the reconnection unless the petitioner tendered the amount of P12,100.30, supposedly as payment for the electric bill covering the period of December 24, 1998 to January 25, 1999. As a consequence, the petitioner personally tendered PNB Check No. 0000408 in the amount of P12,100.30 on July 13, 1999, accompanied by a formal request for the restoration of his electric supply. Notwithstanding the offer of payment, Rolando Dela Paz made a notation on the petitioner's letter stating that payment of arrears would be accepted, but without the reconnection. Still, the respondent restored the petitioner's electricity in the afternoon of July 13, 1999.

In the Order dated July 15, 1999, the trial court granted the petitioner's plea for a writ of preliminary injunction upon posting and approval of the required bond in the amount of P124,000.00 to answer for the damages that the respondent may incur if the writ would later on be found to have been wrongly issued.

The petitioner filed a supplemental complaint impleading Atty. Alfonso Lacap, Atty. Angelito Aguila and Rolando Dela Paz, for their alleged refusal to cause the reconnection of the electricity to his house. In the Order dated January 4, 2000, the trial court admitted the supplemental complaint.

For the petitioner's repeated failure to appear during the hearings set for the presentation of his evidence, the trial court dismissed the complaint on January 11, 2001. A motion for reconsideration was filed by the petitioner on January 12, 2001, which the trial court denied on June 29, 2001.

Aggrieved, the petitioner filed a special civil action for certiorari on August 22, 2001 with the Court of Appeals for the nullification of the trial court's order dismissing his complaint, alleging that the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction. At 11:00 a.m. on August 24, 2001, the respondent disconnected the electric supply to the petitioner's house. The CA issued a resolution at about 3:00 p.m. enjoining the trial court from further proceeding with the case and, likewise, ordered the respondent to cease and desist from enforcing its threatened act to disconnect the petitioner's electric supply.^[6]

The petitioner filed with the CA a motion for the issuance of an order directing the respondent to immediately restore his electricity as ordered by the appellate court. The petitioner, likewise, filed an urgent motion for the issuance of a writ of preliminary mandatory injunction to compel the respondent to restore the electric supply to his residence. The respondent opposed the same, alleging that the electricity was disconnected as early as 11:00 a.m. of August 24, 2001, while the CA's resolution which granted the TRO was promulgated at around 3:45 p.m. of the same day. It also alleged that the TRO was rendered moot and academic, as the electricity in the petitioner's house was already disconnected even prior to the promulgation of the CA resolution.

The petitioner filed an urgent motion for the reconnection of the electric supply to his house within twenty-four hours. The CA, thereafter, issued a Resolution^[7] granting the petitioner's request for the issuance of a writ of preliminary mandatory injunction and requiring the respondent to restore the electricity in the petitioner's house within twenty-four hours "from notice of the approval of the bond." On September 3, 2001, the petitioner posted a surety bond^[8] in the amount of P50,000.00 but the CA did not act thereon. The CA rendered the Decision^[9] on September 17, 2001, directing the trial court to proceed with the trial of the case, and making the writ of preliminary mandatory injunction it earlier issued permanent.

The respondent filed a motion for the reconsideration of the decision, alleging that the writ of preliminary mandatory injunction issued by the trial court was ineffective. It pointed out that the petitioner posted a surety bond instead of depositing cash or cashier's check as required by Section 2 of Republic Act No. 7832. On September 18, 2001, the petitioner wrote the respondent requesting for the restoration of electric supply to his house, to no avail. On September 24, 2001, the petitioner filed an urgent motion for the CA to issue a supplemental order directing the respondent to restore the electric supply to his house within twenty-four hours, considering that he had posted a surety bond in the amount of P50,000.00. On September 27, 2001, the CA issued a Resolution granting the petitioner's motion with a warning to the respondent that it may be impelled to take a more drastic action. In a manifestation, the respondent alleged that the decision of the CA had not yet become final and executory; hence, it could not be compelled to restore the electric supply to the petitioner's residence. The petitioner again wrote the respondent on