

## THIRD DIVISION

**[ G.R. No. 173146, November 25, 2009 ]**

**AGUSAN DEL NORTE ELECTRIC COOPERATIVE, INC. (ANECO),  
REPRESENTED BY ITS MANAGER ROMEO O. DAGANI,  
PETITIONER, VS. ANGELITA BALEN AND SPOUSES HERCULES  
AND RHEA LARIOSA, RESPONDENTS.**

### DECISION

**NACHURA, J.:**

On appeal is the February 21, 2006 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 66153, affirming the December 2, 1999 Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Butuan City, Branch 2, as well as its subsequent Resolution,<sup>[3]</sup> denying petitioner's motion for reconsideration.

Petitioner Agusan del Norte Electric Cooperative, Inc. (ANECO) is a duly organized and registered consumers cooperative, engaged in supplying electricity in the province of Agusan del Norte and in Butuan City. In 1981, ANECO installed an electric post in Purok 4, Ata-atahon, Nasipit, Agusan del Norte, with its main distribution line of 13,000 kilovolts traversing Angelita Balen's (Balen's) residence. Balen's father, Miguel, protested the installation with the District Engineer's Office and with ANECO, but his protest just fell on deaf ears.

On July 25, 1992, Balen, Hercules Lariosa (Lariosa) and Celestino Exclamado (Exclamado) were electrocuted while removing the television antenna (TV antenna) from Balen's residence. The antenna pole touched ANECO's main distribution line which resulted in their electrocution. Exclamado died instantly, while Balen and Lariosa suffered extensive third degree burns.

Balen and Lariosa (respondents) then lodged a complaint<sup>[4]</sup> for damages against ANECO with the RTC of Butuan City.

ANECO filed its answer<sup>[5]</sup> denying the material averments in the complaint, and raising lack of cause of action as a defense. It posited that the complaint did not allege any wrongful act on the part of ANECO, and that respondents acted with gross negligence and evident bad faith. ANECO, thus, prayed for the dismissal of the complaint.

After trial, the RTC rendered a Decision,<sup>[6]</sup> disposing that:

WHEREFORE, judgment is hereby rendered in favor of [respondents] and against [ANECO], directing, ordaining and ordering -

a) That [ANECO] pay [respondent] Angelita E. Balen the sum of One Hundred Thousand Pesos (PHP100,000.00) and [respondent] Hercules A. Lariosa the sum of Seventy Thousand Pesos (PHP70,000.00) as reimbursement of their expenses for hospitalization, medicines, doctor's professional fees, transportation and miscellaneous expenses;

b) That [ANECO] pay [respondent] Angelita E. Balen the sum of Seventy Two Thousand Pesos (PHP72,000.00) for loss of income for three (3) years;

c) That [ANECO] pay [respondent] Angelita E. Balen the sum of Fifteen Thousand Pesos (PHP15,000.00) and another Fifteen Thousand Pesos (PHP15,000.00) to [respondent] Hercules A. Lariosa as moral damages, or a total of Thirty Thousand Pesos (PHP30,000.00);

d) That [ANECO] pay [respondents] Angelita E. Balen and Hercules A. Lariosa Two Thousand Pesos (PHP2,000.00) each or a total of Four Thousand Pesos (PHP4,000.00) as exemplary damages;

e) That [ANECO] pay [respondents] Angelita E. Balen and Hercules A. Lariosa Eight Thousand Pesos (PHP8,000.00) each or a total of Sixteen Thousand Pesos [(PHP 16,000.00)] as attorney's fees and the sum of Two Thousand Pesos (PHP2,000.00) each or a total of Four Thousand Pesos (PHP4,000.00) for expense of litigation;

f) That [ANECO] pay the costs of this suit;

g) The dismissal of [ANECO's] counterclaim; [and]

h) That the amount of Thirteen Thousand Pesos (PHP13,000.00) given by ANECO to [respondent] Angelita E. Balen and acknowledged by the latter to have been received (pre-trial order, record[s], pp. 36-37) must be deducted from the herein judgment debt.

SO ORDERED.<sup>[7]</sup>

On appeal, the CA affirmed *in toto* the RTC ruling. It declared that the proximate cause of the accident could not have been the act or omission of respondents, who were not negligent in taking down the antenna. The proximate cause of the injury sustained by respondents was ANECO's negligence in installing its main distribution line over Balen's residence. ANECO should have exercised caution, care and prudence in installing a high-voltage line over a populated area, or it should have sought an unpopulated area for the said line to traverse. The CA further noted that ANECO failed to put a precautionary sign for installation of wires over 600 volts, which is required by the Philippine Electrical Code.<sup>[8]</sup>

The CA disposed, thus:

**WHEREFORE**, premises considered, the assailed Decision is hereby **AFFIRMED** *in toto*.

SO ORDERED.<sup>[9]</sup>

ANECO filed a motion for reconsideration, but the CA denied it on May 26, 2006.<sup>[10]</sup>

Hence, this appeal.

Indisputably, Exclamado died and respondents sustained injuries from being electrocuted by ANECO's high-tension wire. These facts are borne out by the records and conceded by the parties.

ANECO, however, denied liability, arguing that the mere presence of the high-tension wires over Balen's residence did not cause respondents' injuries. The proximate cause of the accident, it claims, was respondents' negligence in removing the TV antenna and in allowing the pole to touch the high-tension wires. The findings of the RTC, it argues, patently run counter to the facts clearly established by the records. ANECO, thus, contends that the CA committed reversible error in sustaining the findings of the RTC.

The argument lacks merit.

Negligence is defined as the failure to observe for the protection of the interests of another person that degree of care, precaution, and vigilance which the circumstances justly demand, by reason of which such other person suffers injury. The test to determine the existence of negligence in a particular case may be stated as follows: Did the defendant in the performance of the alleged negligent act use reasonable care and caution which an ordinary person would have used in the same situation? If not, then he is guilty of negligence. The existence of negligence in a given case is not determined by reference to the personal judgment of the actor in the situation before him. The law considers what would be reckless, blameworthy, or negligent in the man of ordinary intelligence and prudence and determines liability by that norm.<sup>[11]</sup>

The issue of who, between the parties, was negligent is a factual issue that this Court cannot pass upon, absent any whimsical or capricious exercise of judgment by the lower courts or an ample showing that they lacked any basis for their conclusions.<sup>[12]</sup> The unanimity of the CA and the trial court in their factual ascertainment that ANECO's negligence was the proximate cause of the injuries sustained by respondents bars us from supplanting their findings and substituting them with our own. The function of this Court is limited to the review of the appellate court's alleged errors of law. We are not required to weigh all over again the factual evidence already considered in the proceedings below.<sup>[13]</sup> ANECO has not shown that it is entitled to be excepted from this rule. It has not sufficiently demonstrated any special circumstances to justify a factual review.

That ANECO's negligence was the proximate cause of the injuries sustained by respondents was aptly discussed by the CA, which we quote: