

## SECOND DIVISION

[ G.R. No. 246012, June 17, 2020 ]

**ISMAEL G. LOMARDA AND CRISPINA RASO, PETITIONERS, VS.  
ENGR. ELMER T. FUDALAN, RESPONDENT,**

**BOHOL I ELECTRIC COOPERATIVE, INC., DEFENDANT.**

### D E C I S I O N

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> are the Decision<sup>[2]</sup> dated February 9, 2017 and the Resolution<sup>[3]</sup> dated May 19, 2017 of the Court of Appeals (CA) in CA-G.R. CV No. 04480, which affirmed the Decision<sup>[4]</sup> dated May 15, 2012 of the Regional Trial Court of Tagbilaran City, Bohol, Branch 49 (RTC) in Civil Case No. 7476, granting the complaint for damages filed by respondent Engr. Elmer T. Fudalan (respondent) against petitioners Ismael D. Lomarda (Lomarda) and Crispina Raso (Raso; collectively, petitioners).

#### The Facts

On September 27, 2006, respondent, through his wife, Alma Fudalan, applied for electrical service from BOHECO I Electric Cooperative Inc. (BOHECO I) to illuminate their farmhouse located in Cambanac, Baclayon, Bohol. At the pre-membership seminar, respondent paid the amount of P48.12 as membership fee and was advised to employ the services of an authorized electrician from BOHECO I.<sup>[5]</sup> Accordingly, on October 7, 2006, respondent employed the services of Sabino Albelda Sr. (Albelda), a BOHECO I authorized electrician, who informed him that the electrical connection could only be installed in his farmhouse if he procures a certification from Raso, the Barangay Power Association (BAPA)<sup>[6]</sup> Chairperson. Respondent then instructed his farmhand to get a certification from Raso but despite efforts to reach Raso, the latter was unavailable. Thus, respondent consented to the tapping of his electrical line to that of BAPA upon the assurance of Albelda that he would not be charged with pilferage of electricity because his electric usage shall be determined by the check meter of BOHECO I at the base of the drop line and shall be billed accordingly.<sup>[7]</sup>

In the morning of October 8, 2006, respondent still tried again to obtain Raso's certification. However, during their meeting, Raso allegedly got mad, vowed to never issue the said certification, and eventually then reported the matter to BOHECO I for disconnection.<sup>[8]</sup>

Feeling aggrieved, respondent and his wife went to BOHECO I on October 17, 2006 to complain about Raso's malicious actuations. They were attended to by the receiving clerk, petitioner Lomarda, who, after reviewing their documents, told them

that he would conduct an ocular inspection of their farmhouse. The next day, respondent, together with his farmhand, went looking for Raso and confronted her about the latter's threat of disconnection. To appease them, Raso guaranteed not to order the disconnection of respondent's electricity; nevertheless, she still refused to issue the certification on the premise that respondent's farmhouse already had electricity. In the course of their conversation, Raso uttered, "*Sabut sabuton lang ni nato*," which translates to "let us just settle this."<sup>[9]</sup>

On November 5, 2006, respondent and his wife once more went to Raso to follow up on the issuance of such certification. They met at the *purok* center, where Raso was conducting a meeting with several *purok* members. Thereat, Raso asked why respondent's electricity has not yet been installed. Respondent took this to be a sarcastic and rhetorical remark because Raso was, in fact, the one withholding the issuance of the BAPA certification which was precisely the cause of the delay of the aforesaid installation.<sup>[10]</sup>

In another confrontation, Raso explained that she was about to issue the certification but was prevented by Lomarda, who allegedly apprised her of a pending complaint for premature tapping against respondent. To settle the misunderstanding, Raso directed respondent to discuss the matter with Lomarda at his house, and again uttered "*Sabut sabuton lang ni nato*." During their conversation, Lomarda told respondent that he earlier received a disconnection order issued a long time ago but misplaced the document, and that an ocular inspection of respondent's farmhouse will be conducted on November 6, 2006. When respondent informed Raso of the date of inspection, the latter once again remarked, "*Sabut sabuton lang ni nato*."<sup>[11]</sup>

On the day of inspection, or on November 6, 2006, respondent was assured that his electricity will not be disconnected and that Raso will issue the certification, provided he would pay the amount of P1,750.00 or sign a promissory note. Respondent, however, refused to comply with the said conditions, reasoning that there was no official order from the concerned office. After respondent refused to pay, Lomarda allegedly posed in front of a camera and while pointing at the slot provided for the electric meter, shouted, "This is an illegal tapping." Thereafter, Lomarda, in the presence of policemen, the barangay treasurer, and other several passersby, ordered his linemen to cut off respondent's electricity.<sup>[12]</sup>

On November 9, 2006, respondent communicated with BOHECO I, through phone, and inquired about his electric dues. He was informed that there was no system loss or excess billed to the cooperative, and that his electric usage amounted only to P20.00.

Claiming that petitioners' acts tarnished his image, besmirched his reputation, and defamed his honor and dignity, respondent filed a complaint for damages before the RTC. Respondent alleged that petitioners confederated with one another to purposely delay the approval of his application for electric connection by: (a) withholding the issuance of the BAPA certification; (b) falsely accusing him of premature tapping and pilferage of electricity; and (c) demanding the payment of P1,750.00, when what was due him was only P20.00.<sup>[13]</sup>

For their part, petitioners contended that respondent committed premature tapping

of electricity, when the latter consented to the tapping of his line to the service line of BAPA without a "turn-on" order from BOHECO I. Moreover, they claim that they cannot be faulted for the disconnection, since they gave respondent the option to pay the penalty or sign a promissory note, which the latter refused.<sup>[14]</sup>

### **The RTC Ruling**

In a Decision<sup>[15]</sup> dated May 15, 2012, the RTC found petitioners liable for damages under Article 21 of the Civil Code,<sup>[16]</sup> and accordingly, ordered them to jointly and severally pay respondent the following amounts: (a) P451.65 as actual damages; (b) P200,000.00 as moral damages; (c) P100,000.00 as exemplary damages; (d) P50,000.00 as attorney's fees; and (e) P20,000.00 as litigation expenses.<sup>[17]</sup>

In so ruling, the RTC held that respondent could not have committed premature electrical connection or electric pilferage in violation of the existing rules and regulations of BOHECO I, considering that the installation of respondent's electrical connection was only done upon the advice of Albelda, who is an authorized electrician of BOHECO I. Moreover, the RTC pointed out that respondent was in good faith and exerted all his efforts to comply with the requirements of BOHECO I, while petitioners performed acts that are malicious, dishonest, and in gross bad faith. In particular, petitioners intentionally withheld the issuance of the required BAPA certification and worse, demanded the payment of P1,750.00, when what was due from respondent was only P20.00. Consequently, the RTC ruled that petitioners are liable under Article 21 of the Civil Code.<sup>[18]</sup>

Aggrieved, petitioners appealed to the Court of Appeals (CA).

### **The CA Ruling**

In a Decision<sup>[19]</sup> dated February 9, 2017, the CA affirmed the RTC Decision.<sup>[20]</sup>

At the onset, the CA observed that respondent exerted all efforts to comply with the prescribed requirements in good faith. Moreover, it pointed out that respondent was not caught *in flagrante delicto* of premature tapping because he was the one who reported to Raso the fact of tapping, which was only done under the context that the approving authority was then unavailable to issue the certification despite respondent's efforts.<sup>[21]</sup> On the other hand, the CA ruled that petitioners acted with malice and bad faith, as exhibited by their conduct before, during, and after the disconnection, which is contrary to morals, good customs, or public policy.

Undaunted, petitioners moved for reconsideration but was denied in a Resolution<sup>[22]</sup> dated May 19, 2017; hence, this petition.

### **The Issue Before the Court**

The issue for the Court's resolution is whether or not the CA correctly upheld the award of damages under Article 21 of the Civil Code.

### **The Court's Ruling**

At the outset, it bears stressing that factual findings of the trial court, especially when affirmed by the CA, deserve great weight and respect, unless there are facts of weight and substance that were overlooked or misinterpreted and that would materially affect the disposition of the case.<sup>[23]</sup> Hence, finding no cogent reason to the contrary, their factual findings in this case are sustained.

Petitioners mainly argue that they should not be held liable for damages, considering that respondent made a premature and unauthorized tapping of his electrical connection. In this regard, they invoke the principle that he who comes to court must come with clean hands. Moreover, petitioners allege that respondent is not entitled to moral damages in the absence of evidence to show that the acts imputed against them caused respondent moral suffering.

The arguments of petitioners are untenable.

In this case, petitioners were found liable by both the RTC and CA for abuse of rights under Article 19, in relation to Article 21, of the Civil Code.

"Article 19, known to contain what is commonly referred to as the principle of abuse of rights, sets certain standards which may be observed not only in the exercise of one's rights but also in the performance of one's duties." In this regard, case law states that "[a] right, though by itself legal because [it is] recognized or granted by law as such, may nevertheless become the source of some illegality. When a right is exercised in a manner which does not conform with the norms enshrined in Article 19 and results in damage to another, a legal wrong is thereby committed for which the wrongdoer must be held responsible."<sup>[24]</sup>

"Article 19 is the general rule which governs the conduct of human relations. By itself, it is not the basis of an actionable tort. Article 19 describes the degree of care required so that an actionable tort may arise when it is alleged together with Article 20 or Article 21."<sup>[25]</sup> In *Saudi Arabian Airlines v. CA*,<sup>[26]</sup> the Court explained the relation of Article 19 and Article 21 of the Civil Code:

On one hand, Article 19 of the New Civil Code provides:

Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

On the other hand, Article 21 of the New Civil Code provides:

Art. 21. Any person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for damages.

Thus, in *Philippine National Bank vs. CA*, this Court held that:

The aforecited provisions on human relations were intended to expand the concept of torts in this jurisdiction by granting adequate legal remedy for the untold number of moral wrongs which is impossible for human

foresight to specifically provide in the statutes.

Although Article 19 merely declares a principle of law, Article 21 gives flesh to its provisions. Thus, we agree with private respondent's assertion that violations of Articles 19 and 21 are actionable, with judicially enforceable remedies in the municipal forum.<sup>[27]</sup>

In *Mata v. Agravante*,<sup>[28]</sup> the Court pointed out that Article 21 of the Civil Code "refers to acts *contra bonos mores* and has the following elements: (1) an act which is legal; (2) but which is contrary to morals, good customs, public order or public policy; and (3) is done with intent to injure."<sup>[29]</sup>

In this case, records show that respondent had consistently pursued all reasonable efforts to comply with the prescribed requirements for the installation of electrical connection at his farmhouse. As part of his application for electrical service with BOHECO I, he attended a premembership seminar wherein he duly paid the amount of P48.12 as membership fee. At the seminar, he was advised to employ the services of a BOHECO I authorized electrician, which he did by employing Albelda. As the CA pointed out, there were certain advantages to this course of action, considering that: (a) the said electrician is familiar with the rules and regulations of BOHECO I; (b) an inspection fee will not be charged if the wiring is done by him; and (c) BOHECO I shall provide a 30-meter service drop wire, and electric meter, free of charge, upon payment of the bill deposit.<sup>[30]</sup>

Eventually, Albelda informed respondent that he could only install the electrical connection in respondent's farmhouse if the latter becomes a BAPA member and if he can obtain a certification as such from BAPA Chairperson Raso. Again, respondent took no time in obtaining this certification by instructing his farmhand to reach the aforesaid chairperson. Unfortunately, Raso was unavailable despite the farmhand's diligent efforts. Respondent, who was then put into a precarious situation, sought the advice of Albelda, the cooperative's authorized electrician, on how to deal with the matter. Albelda then assured him that if he will proceed with the tapping of his electrical line to that of BAPA, he would not be charged with pilferage of electricity and would be billed accordingly. Relying in good faith on the authorized electrician's advice on the matter, respondent then consented to the tapping but nonetheless, still instructed his farmhand to secure the certification from Raso to ensure compliance with the requirements for proper installation. Upon meeting with Raso, respondent, by his own volition, candidly brought to her attention the tapping of BAPA's line and duly explained to her the situation. This notwithstanding, Raso was quick to impute malicious actuations against respondent for proceeding with the tapping and reported the matter to BOHECO I for disconnection.

Faced with this predicament, respondent and his wife went to the cooperative to report Raso's actions. They were then attended by the receiving clerk, Lomarda, who told them that he would conduct an ocular inspection of the farmhouse. In the course of trying to comply with the requirements, both Raso and Lomarda gave respondent the roundabout by consistently assuring him that they were settling the matter ("*Sabut sabuton lang ni nato*"). The following excerpt of respondent's testimony during trial is instructive on this score: