

FIRST DIVISION

[G.R. No. 182976, January 14, 2013]

**MANILA ELECTRIC COMPANY (MERALCO), PETITIONER, VS.
ATTY. PABLITO M. CASTILLO, DOING BUSINESS UNDER THE
TRADE NAME AND STYLE OF PERMANENT LIGHT
MANUFACTURING ENTERPRISES AND GUIA S. CASTILLO,
RESPONDENTS.**

D E C I S I O N

VILLARAMA, JR., J.:

Before us is a petition^[1] for review on certiorari seeking to set aside the Decision^[2] dated May 21, 2008 of the Court of Appeals in CA-GR. CV No. 80572. The Court of Appeals had affirmed with modification the Decision^[3] dated July 9, 2003 of the Regional Trial Court (RTC) of Pasig City, Branch 168, in Civil Case No. 65224. The appellate court deleted the award to petitioner Manila Electric Company (Meralco) of the amount of P1,138,898.86, representing overpaid electric bills, and ordered petitioner to pay temperate damages to respondents in the amount of P500,000.

The facts follow.

Respondents Pablito M. Castillo and Guia S. Castillo are spouses engaged in the business of manufacturing and selling fluorescent fixtures, office steel cabinets and related metal fabrications under the name and style of Permanent Light Manufacturing Enterprises (Permanent Light).

On March 2, 1994, the Board of Trustees of the Government Service Insurance System (GSIS) approved the award to Permanent Light of a contract for the supply and installation of 1,200 units of lateral steel filing cabinets worth P7,636,800.^[4] Immediately, Permanent Light began production of the steel cabinets so that it can obtain the award for the supply of 500 additional units.

In the afternoon of April 19, 1994, Joselito Ignacio and Peter Legaspi, Fully Phased Inspectors of petitioner Meralco, sought permission to inspect Permanent Light's electric meter. Said inspection was carried out in the presence of Mike Malikay, an employee of respondents.

The results of the inspection, which are contained in a Special Investigation Report,^[5] show that the terminal seal of Permanent Light's meter was deformed, its meter seal was covered with fake lead, and the 100th dial pointer was misaligned. On the basis of these findings, Ignacio concluded that the meter was tampered with and electric supply to Permanent Light was immediately disconnected. The questioned meter was then taken to Meralco's laboratory for verification.

By petitioner Meralco's claim, it sustained losses in the amount of P126,319.92 over

a 24-month period,^[6] on account of Permanent Light's tampered meter. The next day, in order to secure the reconnection of electricity to Permanent Light, respondents paid P50,000 as down payment on the differential bill to be rendered by Meralco.^[7]

Thereafter, Meralco performed a Polyphase Meter Test on the disputed meter and made the following findings:

1. The ST-5 seal#A217447 padlock type was tampered by forcibly pulling out the sealing hasp while the lead cover seals (ERB#1 (1989) and Meralco#21) were found fake.
2. The meshing adjustment between the 1st driven gear and the rotating disc was found altered causing the said gear to [disengage] totally from the driving gear of the same disc. Under this condition, the meter failed to register, hence, had not been registering the energy [(KWhrs)] and kw demand used by the customer.
3. The 100th dial pointer of the register was found out of alignment which indicates that the meter had been opened to manipulate said dial pointer and set manually to the desired reading.^[8]

Petitioner Meralco billed Permanent Light the amount of P61,709.11, representing the latter's unregistered electric consumption for the period of September 20, 1993 to March 22, 1994. Meralco, however, credited the initial payment of P50,000 made by respondents. It assessed respondents a balance of P11,709.11, but later reduced said amount to P5,538.20 after petitioner allowed respondents a 10% discount on their total bill. Then, petitioner received the amount of P5,538.20 as full settlement of the remaining balance.

Subsequently, respondents received an electric bill in the amount of P38,693.53 for the period of March 22, 1994 to April 21, 1994. This was followed by another bill for P192,009.64 covering the period from November 19, 1993 to April 21, 1994. Respondents contested both assessments in a Letter dated October 12, 1994.^[9] They likewise complained of a significant increase in their electric bills since petitioner installed the replacement meter on April 20, 1994.

In a Letter dated December 7, 1994,^[10] petitioner Meralco explained that the bill for P38,693.53 was already a "corrected bill." According to petitioner, the bill for P192,009.64 was adjusted on August 25, 1994 to reflect respondents' payment of P61,709.11 as settlement of Permanent Light's electric bills from September 20, 1993 to March 22, 1994. It assured respondents that Permanent Light's meter has been tested on November 29, 1994 and was found to be in order. In the same letter, petitioner informed respondents that said meter was replaced anew on December 1, 1994 after it sustained a crack during testing. While respondents continued to pay, allegedly under protest, the succeeding bills of Permanent Light, they refused to pay the bill for P38,693.53.

On August 2, 1995, respondents filed against Meralco a Petition^[11] for Injunction,

Recovery of a Sum of Money and Damages with Prayer for the Issuance of a Temporary Restraining Order (TRO) and Writ of Preliminary Injunction. The case was raffled to Branch 162 of the Pasig RTC, which was presided over by Judge Manuel S. Padolina, and docketed as Civil Case No. 65224.

Mainly, respondents prayed for the issuance of a permanent injunction to enjoin petitioner from cutting power supply to Permanent Light, refrain from charging them unrecorded electric consumption and demanding payment of P38,693.53, representing their bill for March 22, 1994 to April 21, 1994. Corollary to this, respondents sought reimbursement of the P55,538.20 that they had paid as the estimated electric bill of Permanent Light from September 20, 1993 to March 22, 1994. They likewise prayed for the reinstatement of their old meter, which respondents believe accurately records Permanent Light's electric consumption.

In an Order^[12] dated August 29, 1995, the RTC directed the issuance of a TRO to restrain petitioner Meralco from disconnecting electricity to Permanent Light. Later, in an Order^[13] dated September 8, 1995, the RTC directed the issuance of a writ of preliminary injunction upon the posting of a bond in the amount of P95,000.

While trial was pending, respondents reiterated their request for a replacement meter. According to them, the meters installed by Meralco ran faster than the one it confiscated following the disconnection on April 19, 1994.

In 1997, Judge Manuel S. Padolina retired. Thus, the case was heard by Pairing Judge Aurelio C. Trampe until the parties had presented all their witnesses. On October 30, 1998, respondents rested their case and submitted a Written Offer of Exhibits.^[14] Meanwhile, petitioner filed a Formal Offer of Evidence^[15] on September 22, 1999. By then, a regular presiding judge had been appointed to Branch 162 in the person of Hon. Erlinda Piñera Uy. However, on November 8, 1999, respondents filed an Urgent Motion to Inhibit Ad Cautelam.^[16] Judge Uy voluntarily recused herself from hearing the case by Order^[17] dated November 10, 1999. Eventually, the case was raffled to Branch 168 of the Pasig RTC presided by Judge Leticia Querubin Ulibarri.

On November 28, 2001, Meralco installed a new electric meter at the premises of Permanent Light. Following this, on January 29, 2002, respondents filed an Urgent Motion to Proffer and Mark the Latest Meralco Bill of P9,318.65 which was Reflected in the 3rd Meralco Electric Meter Recently Installed by Defendant Meralco.^[18] Despite petitioner's opposition, the RTC admitted said bill into evidence.

On July 9, 2003, the Pasig RTC, Branch 168, rendered judgment in favor of respondents. The *fallo* of said Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the petitioners and against the respondent ordering the latter to pay the former the following:

1. P1,138,898.86 representing overpayments made by the petitioners from May 1994 to November 2001;

2. P200,000.00 as and for moral damages;
3. P100,000.00 as and for exemplary damages;
4. P100,000.00 as and for attorney's fees; and
5. the costs of this suit.

On the other hand, petitioners are hereby ordered to pay to the respondent the amount of P38,693.53 representing the billing differential.

The Preliminary Injunction issued by the Court is hereby made **PERMANENT**.

SO ORDERED.^[19]

The trial court ruled that petitioner failed to observe due process when it disconnected electricity to Permanent Light. It explained that under Section 4 of Republic Act No. 7832^[20] (RA 7832), in order that a tampered meter may constitute *prima facie* evidence of illegal use of electricity by the person benefited thereby, the discovery thereof must have been witnessed by an officer of the law or an authorized representative of the Energy Regulatory Board (ERB). In this case, however, the RTC noted that no officer of the law or authorized ERB representative was present when the tampered meter was discovered. Moreover, the trial court found no direct evidence to prove that respondents were responsible for tampering with said meter.

On the basis of the proffered bill dated December 29, 2001,^[21] the RTC concluded that the replacement meter installed by Meralco did not accurately register Permanent Light's electric consumption. Consequently, it ordered petitioner to reimburse respondents in the amount of P1,138,898.86, representing the supposed overpayment from April 1994 to November 2001. For failure to observe due process in disconnecting electricity to Permanent Light, the trial court likewise imposed upon petitioner Meralco moral and exemplary damages in the amount of P200,000 and P100,000, respectively.

In the assailed Decision dated May 21, 2008, the Court of Appeals affirmed with modification the Decision of the RTC. It deleted the award of P1,138,898.86 in favor of respondents and instead ordered petitioner to pay temperate damages in the amount of P500,000.

The Court of Appeals held that petitioner abused its right when it disconnected the electricity of Permanent Light. The appellate court upheld the validity of the provision in petitioner's service contract which allows the utility company to disconnect service upon a customer's failure to pay the differential billing. It however stressed that under Section 97^[22] of Revised Order No. 1 of the Public Service Commission, the right of a public utility to discontinue its service to a customer is subject to the requirement of a 48- hour written notice of disconnection. Petitioner's failure in this regard, according to the appellate court, justifies the

award of moral and exemplary damages to respondents.

The Court of Appeals ordered petitioner to reimburse respondents for overpayment on their electric bills. It sustained the finding of the trial court that the electric meter installed by petitioner in Permanent Light's premises on April 20, 1994 was registering a higher reading than usual. The appellate court based its conclusion on the marked difference between Permanent Light's net billing from 1985 to 2001 compared to its consumption after the new meter was installed, and the consequent decrease after said meter was replaced on November 28, 2001. However, instead of actual damages, the Court of Appeals awarded respondents temperate damages in the amount of P500,000.

Hence, this petition.

Petitioner submits the following assignment of errors:

I.

THE COURT OF APPEALS SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN AFFIRMING THE AWARD OF MORAL AND EXEMPLARY DAMAGES IN FAVOR OF THE RESPONDENTS[;]^[23]

II.

THE COURT OF APPEALS SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN AWARDING P500,000.00 FOR AND AS TEMPERATE DAMAGES IN FAVOR OF THE RESPONDENTS.^[24]

Amplified, the issues for our resolution are two-fold: (1) Are respondents entitled to claim damages for petitioner's act of disconnecting electricity to Permanent Light on April 19, 1994? and (2) Are respondents entitled to actual damages for the supposed overbilling by petitioner Meralco of their electric consumption from April 20, 1994 to November 28, 2001?

Petitioner faults the Court of Appeals for affirming the award of moral and exemplary damages to respondents. It argues that respondents failed to establish how the disconnection of electricity to Permanent Light for one day compromised its production. Petitioner cites respondents' admission that soon after the power went out, they used generators to keep the operations of Permanent Light on track.

Petitioner further negates bad faith in discontinuing service to Permanent Light without notice to respondents. It contends that the 48-hour notice requirement in Section 97 of Revised General Order No. 1 applies only to a customer who fails to pay the regular bill. Petitioner insists that the discovery by its Fully Phased Inspectors of Permanent Light's tampered meter justified disconnection of electricity to the latter.

Also, petitioner challenges the award of temperate damages to respondents for the alleged overbilling. It objects to the admission into evidence of Permanent Light's December 29, 2001 electric bill, which respondents proffered two years after the