

## THIRD DIVISION

[ G.R. No. 132540, April 16, 2009 ]

**ALBAY ELECTRIC COOPERATIVE, INC., EDGARDO A. SAN PABLO,  
AND EVAN CALLEJA, PETITIONERS, VS. HON. RAFAEL P.  
SANTELICES, IN HIS CAPACITY AS THE PRESIDING JUDGE OF  
THE REGIONAL TRIAL COURT OF LEGAZPI CITY, BRANCH NO. 2,  
AND MAYON INTERNATIONAL HOTEL, INC., RESPONDENTS.**

### D E C I S I O N

#### **CHICO-NAZARIO, J.:**

Petitioners Albay Electric Cooperative, Inc. (ALECO), Edgardo A. San Pablo (San Pablo), and Evan Calleja (Calleja) come to this Court by way of a Petition for *Certiorari* under Rule 65 of the 1997 Rules of Civil Procedure assailing the Orders dated 17 October 1997, 12 November 1997, and 11 February 1998, issued by public respondent Hon. Rafael P. Santelices (Judge Santelices), Presiding Judge of the Regional Trial Court (RTC) of Legazpi City, Branch 2, in Civil Case No. 9441.

Private respondent Mayon International Hotel, Inc. (MIH) filed on 3 October 1997, before the RTC, a Complaint<sup>[1]</sup> against petitioners for Damages Due to Illegal Electric Disconnection and Extortion with Temporary Restraining Order and/or Preliminary Mandatory Injunction, which was docketed as Civil Case No. 9441. MIH alleged that on 16 September 1997, at 3:00 p.m., ALECO employees, led by San Pablo and Calleja, tampered with the security seal, plastic seal, padlock, and sealing lead of the current transformer (CT) box of MIH. Thereafter, ALECO maliciously blamed said tampering, which its own employees committed, on MIH, in an attempt to extort money from the latter. In an undated and unsigned billing, ALECO charged MIH P1,482,718.56 differential for electricity consumed, an amount which ALECO unilaterally and arbitrarily computed, in violation of Section 6 of Republic Act No. 7832.<sup>[2]</sup>

Petitioners, on the other hand, had a different version of the events. According to petitioners, on 16 September 1997, at about 3:00 o'clock in the afternoon, Calleja, Head of the ALECO Task Force on Systems Loss Reduction Program, together with other ALECO employees Jose Galang, Richard Aramburo, and Lorenzo Mendioro, went to conduct a routinary inspection of the electrical connections/facilities at MIH. Calleja and his men sought permission from Conversion Lorica, Head of the Engineering and Maintenance Department of MIH, who accompanied Calleja and his group to the Energy Room. Calleja saw that the padlock securing the CT box of MIH had been tampered with. Performing a routine test on the electric meter, where he unscrewed the tapping of the current transformer connection, Calleja observed that the kilowatt-hour disk rotated backwards or in reverse. Certain that some tampering must have been done with the inside of the CT box, Calleja sent one of his men to fetch and inform San Pablo, General Manager of ALECO, of the initial findings from the inspection conducted. Responding to Calleja's call, San Pablo proceeded to MIH

accompanied by Engineer Alex Realoza and Senior Police Officer 2 Danilo A. Lerin of the Legazpi City Philippine National Police (PNP). Upon close inspection by ALECO employees of the CT box, they observed that the lead and plastic seals, as well as the padlock securing said device, were all tampered with. Because the padlock could not be opened by its key, San Pablo requested Lorica for a hack or steel saw to cut the padlock. When the CT box was finally opened after the padlock was sawed off, it was revealed that the lead seal at the terminal cover had been cut, and there was a switching or interchanging of the lines in one of the terminals inside the CT box, which induced opposing currents into the kilowatt-hour meter, the gadget recording energy consumption. Because of such switching/interchanging of the lines inside the CT box, the recording of the electrical consumption by the kilowatt-hour meter could already be controlled. The kilowatt-hour meter disk could even be made to rotate backwards or in reverse, depending upon the load.

While Civil Case No. 9441 is still pending, petitioners already seek recourse from this Court via the instant Petition for *Certiorari*, alleging several irregularities committed by RTC Judge Santelices in the conduct of the proceedings *a quo*, without or in excess of jurisdiction or with grave abuse of discretion.

*First*, petitioners aver that Judge Santelices, as the Executive Judge of the RTC of Legazpi City, assigned Civil Case No. 9441 to his own branch, Branch 2,<sup>[3]</sup> without notifying ALECO about the pendency of said case and the schedule of raffle of the same, utterly disregarding and failing to comply with Administrative Circular No. 20-95<sup>[4]</sup> dated 12 September 1995.

*Second*, Judge Santelices, in his Order dated 17 October 1997, set the pre-trial conference of Civil Case No. 9441 on 12 November 1997 at 8:30 a.m., even when MIH, as the plaintiff in said case, had not yet filed any motion for the setting of the same;<sup>[5]</sup> nor had the last pleading therein been filed or the period for such filing expired. Pertinent portions of the said Order reads:

The court taking advantage of the presence of the parties and counsels, set the case for pre-trial and trial on the merits. The pre-trial will be on November 12, 1997 at 8:30 o'clock in the morning. Immediately after the trial, the case will be heard on the merits and the [herein private respondent MIH] will continue presenting their evidence on November 13 and 14, 1997 both at 8:30 o'clock in the morning. The [herein petitioners] will present evidence on November 17 and 18, 1997, both at 8:30 o'clock in the morning.

These dates being agreed upon in open court, are intransferable in character. Medical certificate will not be entertained unless the issuing doctor is presented on the witness stand to identify the medical certificate.<sup>[6]</sup>

*Third*, on 11 November 1997, a day before the scheduled pre-trial conference in Civil Case No. 9441, Atty. Wilfredo Matias filed with the RTC a motion to withdraw his appearance as counsel *de parte* for petitioners, which was duly noted by Judge Santelices.<sup>[7]</sup> Without a lawyer, petitioners did not know what to do since the pre-trial conference was already set for the next day. The tight situation compelled petitioners to request Atty. Danilo V. Roleda (Atty. Roleda), Councilor of Manila, to

attend the 12 November 1997 pre-trial conference as their special counsel.

Atty. Roleda appeared as special counsel for petitioners before the RTC on 12 November 1997, but only for the purpose of seeking the cancellation of the pre-trial conference scheduled on said date on the ground that he was not familiar with Civil Case No. 9441. However, Atty. Jesus F. Balicanta (Atty. Balicanta) of M.M. Lazaro & Associates, counsel for MIH, objected to the cancellation of the pre-trial conference. After a lengthy argument with Atty. Roleda, Judge Santelices gave in to the cancellation of the pre-trial conference scheduled on 12 November 1997, but ordered petitioners to reimburse Atty. Balicanta for his air transportation expenses amounting to P2,500.00 and pay his court appearance fee for the day amounting to P3,000.00. In his Order dated 12 November 1997, Judge Santelices stated:

Today's hearing is supposed to be for pre-trial of this case. Attached to the record however, is a motion filed by the counsel on record for the [herein petitioners] Atty. Wifredo Matias, withdrawing his appearance as such counsel.

It appears that the withdrawal is with the conformity of the [petitioners]. The [herein private respondent MIH] however, together with counsel, as well as the collaborating counsel were present. Counsel for the [MIH] was insisting that the Court shall proceed with the pre-trial and that [petitioner] ALECO be declared as in default for not appearing at today's hearing nor giving the authority to anybody to appear for and its behalf.

Special appearance was entered by Atty. Danilo V. Roleda solely for the purpose of seeking cancellation of today's pre-trial and for resetting to another date on the ground that he is new in the case.

The Court, considering that Atty. Roleda has just appeared today and he might not be knowledgeable of the case, agreed to the cancellation of today's hearing, but considering that counsel for the [MIH] had to travel from Manila where he has his law office to Legazpi City and incurred expenses, it is just but proper that the counsel for the [MIH] be reimbursed for the expenses incurred. The withdrawal of appearance, as it appears from the record was just filed yesterday at 2:45 o'clock in the afternoon, the general manager of ALECO likewise filed a request for cancellation, but it was filed yesterday at 3:00 o'clock in the afternoon, the motion for cancellation of the hearing therefore does not conform with the rules. They should have filed the motion three (3) days before the scheduled hearing or perhaps, should have called [MIH's] counsel by a long distance or sent a telegram in order to avoid their coming over to attend the hearing and incur expenses.

PREMISES CONSIDERED, the pre-trial for today is cancelled and is reset to December 10, 1997 at 8:30 o'clock in the morning. This date being agreed upon in open Court is intransferrable in character. [Petitioners] are likewise directed to reimburse the expenses of counsel's transportation expenses in the amount of P2,500.00 plus appearance fee of P3,000.00.<sup>[8]</sup>

Petitioners, through their succeeding counsel, Atty. Nescito C. Hilario, filed a Motion for Reconsideration<sup>[9]</sup> of the foregoing Order. Judge Santelices, in another Order dated 11 February 1998, denied said Motion.<sup>[10]</sup> Judge Santelices refused to reconsider and reverse his 12 November 1997 Order for the following reasons:

There is yet another motion to be resolved and this is a motion for reconsideration filed by the said counsel Atty. Nescito Hilario, filed on December 10, 1997 or on the day of the scheduled pre-trial. What is being sought to be reconsidered by said motion is the order of the Court requiring the [herein petitioners] to reimburse [herein private respondent MIH's] counsel the amount of P2,500.00, representing transportation expenses and P3,000.00 for appearance fee.

Counsel alleged that said order is not countenanced by the 1997 Rules on Civil Procedure, nor by any law for that matter, hence the questioned order is illegal because it is without any legal basis, and therefore, an exercise of grave abuse of discretion amounting to lack of jurisdiction.

The Court must admit that there was some error in the order. The reimbursement should not be made to [MIH's] counsel but rather, it should be to the [MIH] itself because it is the latter that pays for the traveling expenses of counsel and the appearance fee.

The reason for the Court issuing that order was that [MIH's] counsel has to come all the way from Manila just to attend the scheduled pre-trial on that day. [Petitioners'] previous counsel has withdrawn his appearance, but considering that the [petitioners] knew of the said scheduled pre-trial, they appeared. [Petitioners] even secured the services of a new lawyer to enter a special appearance just for the purpose of canceling the pre-trial because the previous lawyer has withdrawn.

If the [petitioners] could secure the services of a new lawyer, who likewise is from Metro Manila, could they not have notified the other party and/or counsel of the fact that their lawyer has withdrawn and that [petitioners] are not ready for pre-trial. Perhaps, notice could have been made at least even by way of telegram, to forewarn [MIH]. If [MIH] and/or counsel receives such information by whatever means to the satisfaction of the Court and despite receipt of such information, [MIH] and/or counsel still presented themselves at the scheduled pre-trial, there could have been no reason whatsoever to order [petitioners] to reimburse [MIH] the traveling expenses incurred by it for the lawyer including the appearance fee.

PREMISES CONSIDERED, the motion for reconsideration is likewise DENIED.<sup>[11]</sup>

Hence, petitioners presented the following issues for adjudication by this Court:

- I. WHETHER OR NOT RESPONDENT JUDGE RAFAEL P. SANTELICES HAS ACTED WITHOUT OR IN EXCESS OF HIS JURISDICTION, OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN HE SET THE PRE-TRIAL OF CIVIL

CASE NO. 9441 IN UTTER DISREGARD OF SECTION 1 OF RULE 18 OF THE 1997 RULES OF CIVIL PROCEDURE;<sup>[12]</sup> AND

II. WHETHER OR NOT RESPONDENT JUDGE RAFAEL P. SANTELICES HAS ACTED WITHOUT OR IN EXCESS OF HIS JURISDICTION, OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF HIS JURISDICTION WHEN HE ISSUED THE SUBJECT ORDERS DATED NOVEMBER 12, 1997 AND FEBRUARY 11, 1998 REQUIRING THE HEREIN PETITIONERS TO PAY AND REIMBURSE RESPONDENT MAYON OR ATTY. JESUS F. BALICANTA OF M.M. LAZARO & ASSOCIATES FOR HIS TRANSPORTATION EXPENSES AMOUNTING TO P2,500.00 AND COURT APPEARANCE FEE FOR NOVEMBER 12, 1997 AMOUNTING TO P3,000.00 FOR ATTENDING THE SUBJECT PRE-TRIAL CONFERENCE OF CIVIL CASE NO. 9441.

The Court emphasizes, however, that no temporary restraining order or writ of preliminary injunction was issued by this Court to enjoin the RTC from proceeding with Civil Case No. 9441. Consequently, the RTC already rendered a Decision on 7 August 2000 in Civil Case No. 9441, the dispositive portion of which provides:

WHEREFORE, premises considered, decision is hereby rendered, in favor of the [herein petitioners] and against the [herein private respondent MIH],

a) Ordering the complaint DISMISSED.

b) Ordering the [MIH] to pay [petitioner] Albay Electric Cooperative, Inc. (ALECO) P2,908,763.00, the sum equivalent to double the value of the estimated electricity illegally used referred to as differential billing pursuant to the last proviso in the first paragraph of Sec. 6, Rep. Act No. 7832.

c) Ordering the [MIH] to pay [petitioners] exemplary damages of P250,000.00.

d) Ordering the [MIH] to pay the [petitioners] Edgardo San Pablo and Evan Calleja P1,000,000.00 each, as moral damages.

e) Ordering the [MIH] to pay [petitioners] P600,000.00 as attorney's fees, litigation and incidental expenses.

Costs against the [MIH].<sup>[13]</sup>

MIH then filed an appeal with the Court of Appeals, docketed as CA-G.R. CV No. 68491. On 30 July 2007, the Court of Appeals rendered a Decision<sup>[14]</sup> in CA-G.R. CV No. 68491 in which it decreed:

WHEREFORE, in view of all the foregoing, the assailed decision dated August 7, 2000 of Branch 6, Regional Trial Court of Legazpi City, in Civil Case No. 9441 is AFFIRMED with MODIFICATION that the award of actual damages in favor of [herein petitioner] Albay Electric Cooperative, Inc. is reduced to One Million Four Hundred Fifty-Four Thousand Three Hundred