

SECOND DIVISION

[G.R. NO. 109389, June 26, 2006]

MANILA ELECTRIC COMPANY, PETITIONER, VS. SPOUSES HUA KIM PENG AND ANGELITA RAMORAN, RESPONDENTS.

DECISION

SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant petition for review on certiorari assailing the Decision^[1] dated March 19, 1993 of the Court of Appeals in CA-G.R. CV No. 32460.

The facts, as narrated by the trial court and adopted by the Court of Appeals, are:

On December 7, 1988, spouses Hua Kim Peng and Angelita Ramoran, respondents, filed with the Regional Trial Court (RTC), Branch 81, Quezon City a Complaint^[2] for Injunction with Damages against the Manila Electric Company (MERALCO),^[3] petitioner, docketed as Civil Case No. Q-88-1323. The complaint alleges *inter alia* that respondents are the owners of two small factories manufacturing plastic and three residential units where their family and in-laws live, located at 153 West Riverside, Quezon City. Petitioner supplies electricity to the said factories and residential units under the following accounts:

- a) Account No. 05284-3885-18 (commercial)
- b) Account No. 05284-3875-10 (commercial)
- c) Account No. 05284-3877-18 (residential)
- d) Account No. 05284-3876-19 (residential)
- e) Account No. 05284-3880-21 (residential)

all of which have five (5) separate metering devices to record the power consumption. Originally, these metering devices were installed by petitioner's crew on the concrete wall inside respondents' compound. Later, the same crew transferred the metering devices to the outside wall, leaving inside one idle meter base.

Respondents have been religiously paying their monthly electric bills. On September 24, 1988, while respondents were not yet home, petitioner's inspection team arrived at their compound. They climbed the wall through a ladder. Once inside the compound, they removed the idle meter base. Then they presented to Leticia Zamora, respondent Angelita Ramoran's cousin, pink papers stating that jumpers were connected to respondents' electric service, preventing the meter from registering the actual electrical consumption.^[4]

On September 28, 1988, respondents' lawyer sent petitioner a registered letter^[5] stating that the jumpers allegedly found by its inspection team on the idle meter

base "is a fabrication"; and that to determine the truth, petitioner should send another inspection team.

Petitioner ignored the request of respondents' lawyer. Instead, after a month, petitioner sent respondents five letters all marked "CONFIDENTIAL," demanding payment of P1,811,933.08, within 10 days from notice, for electrical consumption **not** registered in the five metering devices because of the jumpers connected to their electric service. When respondents refused to pay, petitioner threatened to disconnect their electrical service. Thus, respondents prayed that a writ of injunction be issued and that petitioner be ordered to pay moral and exemplary damages and litigation expenses.

In its Answer with Compulsory Counterclaim and Opposition to the Application for Injunction,^[6] petitioner specifically denied the material allegations of the complaint, maintaining that its crew found permanent jumpers connected to respondents' electric service. The crew took pictures of the jumpers and corrected the defects in the metering installation. Their findings were confirmed by an actual laboratory test. Because of the illegal jumpers, petitioner suffered losses in terms of "**used** but **unregistered** electricity" in the amount of P1,811,933.08. Due to respondents' failure to pay the said amount despite demand, petitioner has the right, under its charter and service contracts, to discontinue supplying electricity to respondents. Petitioner thus prayed that the complaint be dismissed and that respondents be ordered to pay the amount demanded plus damages.

On December 7, 1988, the RTC issued a temporary restraining order and, eventually, a writ of preliminary injunction enjoining petitioner from disconnecting respondents' electric services.^[7]

After trial, or on April 8, 1991, the RTC rendered its Decision^[8] in favor of petitioner, thus:

WHEREFORE, judgment is hereby rendered:

1. Dismissing plaintiffs' complaint;
2. Ordering plaintiffs, under defendant's counterclaim, to pay defendant the amount of P1,811,933.08, with interest at the legal rate until fully paid, and to pay the costs of the suit.

SO ORDERED.

On appeal by respondents, the Court of Appeals, in its Decision^[9] dated March 19, 1993, reversed the RTC judgment, thus:

WHEREFORE, in view of the foregoing, the decision appealed from is hereby **REVERSED** and **SET ASIDE** and a new one rendered:

- (1) Permanently enjoining MERALCO from cutting the electrical connection of plaintiffs-appellants on the grounds which caused the filing of the complaint for injunction in the instant case;

- (2) Ordering MERALCO to pay the plaintiffs-appellants the amount of P50,000.00 as moral damages and P50,000.00 as exemplary damages;
- (3) Ordering MERALCO to pay the plaintiffs-appellants the amount of P50,000.00 as attorney's fees and to pay the costs of the suit; and
- (4) Dismissing all other claims and/or counterclaims for not being well-founded and for lack of merit.

SO ORDERED.

The Court of Appeals held that there is serious misapprehension of facts in the Decision appealed from, thus:

First, **an assiduous examination of the pictures submitted by the defendant reveals that, contrary to its claim that jumpers were used by the plaintiffs, the pictures prove otherwise.** From the pictures marked as Exhs. 1 to 7, inclusive, the main service line from the MERALCO enters a conduit near the top, but outside the wall, of the plaintiffs' compound, and goes downward to such height as to make it more convenient for the MERALCO employee to read the meter for purposes of determining the consumption of the plaintiffs. In order for the consumer to be guilty of using a jumper, he must tap from the area between the entrance wire coming from the main line of MERALCO, up to the meter, because if he taps from the line which has already passed the meter, he cannot be guilty of using a jumper, because in the latter case, the electrical current that he will consume will be recorded in the meter.

In the instant case, MERALCO does not claim that the meters were tampered, but, on the contrary, that they were properly functioning. The pictures, especially Exhs. 2 and 3, show that the big wires which are the entrance wires from the main line of MERALCO have not been tapped. What defendant's service inspector is holding and pointing at in the pictures as alleged wire jumpers, are the smaller wires which are tapping electricity from the wires coming from inside the conduit. It should be noted, that putting the entrance wire from the MERALCO main line as it reaches the wall and down to the meter, and from the meter up to a safe place, inside conduits for safety purposes, is a standard procedure, if not a requirement. It is from said wire coming from inside the conduit and which has already passed the meter that a consumer taps for the electrical consumption. This is precisely what was done by plaintiffs, as clearly shown in Exh. 3 but which defendant's service inspector maliciously points as a jumper, and the same is also true as regards the other pictures marked as Exhs. 2, 4, 5, 6 and 7.

Second, **it is hard to believe that plaintiffs-appellants would install jumpers, at a place indicated by the MERALCO inspector and allegedly shown in the pictures (Exhs. 1-1 to 7, inclusive),**

particularly considering that the wires indicated as jumpers, are outside the compound of the plaintiffs and so obvious to any passerby, especially to any employee of the MERALCO who would be reading the meter consumption every month. All that the MERALCO inspector would have to do upon reading the meter is to look up and see the alleged jumpers. Otherwise stated, if plaintiffs-appellants would use jumpers, they would install it in such a way that it cannot easily be detected, and not as obvious as the wiring shown in the pictures. Since the alleged illegal tapplings are so obvious to the naked eye, especially to any employee of the MERALCO who would read the meter consumption every month and which they have been doing for years, they would naturally report the same immediately to the MERALCO office, if the same really existed, and yet, they never complained or reported any alleged illegal wire tapping until the incident in question. **Thus, the claims of the witnesses of MERALCO of alleged electrical wire tapping are illogical, maliciously fabricated and in bad faith.**

Third, **in fact, the customer account information submitted by MERALCO belies its claim that a jumper was used by plaintiffs-appellants.** If it were true, as claimed by MERALCO, that plaintiffs-appellants used illegal jumpers, then clearly, the electric consumption after the alleged jumpers were removed and the line corrected during the inspection of September 24, 1988, should be much higher than before said inspection and correction date. **However, a reading of the 15-month bill history of plaintiffs-appellants shows that the electrical consumption is practically the same before and after September 24, 1988, and in most cases, even lower after September 24, 1988 than previous thereto.** x x x.

x x x

x x x

x x x

Furthermore, the MERALCO differential billing lacks rational basis, since variation in consumption could mean many things. Breakdowns of machinery or lesser use of electricity due to lesser production necessarily will result in lesser current consumption. MERALCO's system of determining the average consumption to determine the actual current used, can be made applicable in cases where the meters did not function properly in certain months, in which case, since none is recorded during said months, then the average consumption during previous and subsequent months can be used to determine how much would have been consumed during the months when the meter did not function, which is not the circumstance existing in the instant case.

Hence, this petition for review on certiorari.

Petitioner contends that the Court of Appeals erred: (1) in finding that respondents did not install jumpers; and (2) in ruling that its "differential bills" on the "used but unregistered electricity," in the total amount of P1,811,933.08, lack rational basis.

Respondents, in their Comment, countered that the factual findings of the Court of Appeals in its assailed Decision are supported by the evidence on record. They thus prayed that the instant petition be dismissed.