

FIRST DIVISION

[G. R. No. 126243, January 18, 2002]

MANILA ELECTRIC COMPANY, PETITIONER, VS. MACRO TEXTILE MILLS CORPORATION, RESPONDENT.

DECISION

PARDO, J.:

The Case

This is a petition for review on certiorari assailing the propriety of the imposition of differential billings on respondent Macro Textile Mills Corporation (MACRO) for unregistered consumption of electricity resulting from the tampering of Meralco's electric meter.^[1]

MACRO is MERALCO'S general power customer under billing account number 9400-822-19, covered by a service contract.

On October 3, 1986, MACRO filed with the Regional Trial Court, Quezon City, Branch 86^[2] a complaint for injunction with an application for a restraining order against MERALCO to restrain MERALCO from cutting MACRO'S electric service and to compel MERALCO to explain its billing.

On the same date, the trial court issued a temporary restraining order enjoining the parties to maintain the *status quo*.^[3]

On April 28, 1989, the presiding judge^[4] inhibited himself from further hearing the case following a motion to inhibit filed by MERALCO.

The Facts

The facts, as found by the trial court, are as follows:

"Plaintiff is a customer of the defendant, consuming electricity since 1982, up to the present. However, on February 27, 1982, the Weaving Department of plaintiff was gutted by fire. All the machineries producing textiles were destroyed by fire. The operation of the plaintiff was reduced to dyeing business only. Before the fire, plaintiff has its own weaving plant, and it produces (sic) textile fabrics. However, after the fire the plaintiff had only four (4) dyeing machines, two (2) sets of high-pressured dying machines, and one sintering machine. It stopped operation for almost a year. They started operations against in its dyeing business in 1983. In the years 1985 and 1986, there was a slump in the textile business, so much so, that its monthly electric consumption was also reduced. Despite the fact that there was a slump in the textile

business, and the fire which gutted the weaving department, the monthly electric bills were religiously paid by the plaintiff.

"In 1985, the plaintiff's operation became irregular, because it depended solely in the job orders for dyeing. There was partial operation only, and sometimes complete cessation for several months.

"On June 4, 1986, or more than a year from the inspection conducted by the personnel of the defendant in March, 1985, the plaintiff received a letter, dated May 10, 1986, demanding P2,015,630.18, representing alleged unregistered consumption. The defendant did not specify, however, how the said amount was arrived at.

"On this point, the plaintiff wrote several letters to the defendant, asking for clarification, but defendant made replies, threatening to cut off its electric energy. For this reason, the plaintiff requested the defendant to re-inspect the premises, so that the defendant could see for itself the actual operation of the machines, which is limited to dyeing job orders only. Despite the request of the plaintiff for re-inspection, the defendant requested for a conference in their own office. The plaintiff insisted, however, that the defendant send its personnel to the premises to see for themselves how things were going on in the compound. Plaintiff every now and then, begged and clamoured for clarifications and explanations as to how their billings were made. By way of retaliation, the defendant made final and firm demand to the plaintiff to pay P213,964.17, otherwise, their electric installations would be disconnected. The plaintiff appealed to the defendant to explain how and why they should pay. The plaintiff, again, asked for a dialogue, but the defendant refused, and answered that the same was not necessary. Ultimately, the defendant sent a crew of its personnel to disconnect the electrical installations. The plaintiff was thus constrained to pay, under protest, P100,000.00. The plaintiff always explained to the defendant, that they have paid religiously their regular bills, and has not acted dishonestly, fraudulently or illegally. Despite the several requests of the plaintiff for a dialogue, the defendant always refused.

"The plaintiff likewise, has demanded from the defendant, to show them the meter switch, alleged to have been tampered, but the defendant claims that it was lost. The defendant resorted to simulated switch and the test of which, was conducted in their premises, and without the presence of a representative of the plaintiff. The plaintiff, likewise, demanded that the defendant surrender or show them the meter which reflects high and low consumption, but the defendant could not produce the same. The defendant simply, resorted to its own computations based on simulated tests.

"While this case was pending before Branch 86, the Presiding Judge thereat, issued a Temporary Restraining Order, restraining the defendant from disconnecting the electrical installations of the plaintiff. When the case was in the Court of Appeals, the parties, in their "Stipulation of Facts", agreed to maintain the status quo.

"The plaintiff claims that the defendant checks very often, their installations. On one occasion, the Security Guards reported the high-handed manner by which several men of the defendant entered the premises of the plaintiff and simultaneously opened everything in the meter installations. The incident was reported to and blotted in the Police Station. (Exhibit V).

"The meter installations of the defendant in the plaintiff's premises is inside a meter box, and padlocked by the defendant. The defendant's personnel holds the key thereto. The meter box is also securely locked with seal. When the same was inspected by the personnel of the defendant, they even opened the said meter box by the use of a bolt cutter." [5]

On December 5, 1990, the trial court^[6] rendered a decision holding that:

"(t)here is not a piece of convincing, credible and tangible evidence that plaintiff did the alleged tampering of the electric installations."

On the other hand, it found that petitioner:

"committed wrongful and injurious invasion of plaintiff's rights by insinuating tampering of meters and demanding bills which are arbitrary, unjust, baseless and unexplained."

The trial court further held:

"x x x. Plaintiff's indignant denials and several demands for a clarification of the adjusted bills, reflect the reaction of innocent businessmen, and are conclusive indexes inconsistent with dishonesty and irregularities. It is against reason and common sense that the plaintiff would commit acts of dishonesty, like repeatedly tampering with its meters, and then without rhyme or reason, beg, plead and invite the defendant, to inspect, re-inspect and observe its operations. The reports of the personnel of the defendant engender in the mind a serious doubt as to whether or not the plaintiff would time and again, tamper with its meters knowing that inspections are being made, every now and then. The defendant's imputations are imagined wrongs. It is so easy to conjure some such situations, which could be inflated several degrees into make-believe suppositions. To correct an obvious and palpable injustices, the defendant must avoid using high-handed tactics in dealing with its customers." [7]

The trial court concluded that respondent cannot be faulted for its refusal to pay the adjusted bills considering that it religiously paid its regular bills. Thus-

"Impelled by its desire to harass the plaintiff, the defendant's personnel inspected the metering installations. The inspectors in their report stated that, the plastic cover seals were allegedly found deformed and that the potential lead for the lower element was not electrically connected. But all these happened because the MERALCO men slowly detached the plastic cover seals and forcibly pulled down, with the use of long-nosed pliers, the wires serving as potential lead for the lower element. This fact

is glaring in the light of the testimony of plaintiff's security officer, Honorio Gabriel. To top it all, the meter switch and the shorted wire alleged to have been tampered and taken by the inspectors were never presented in court. They were conveniently lost, so the defendant resorted to simulated switch, in their office, without a representative of the Board of Energy or the plaintiff. And the result of these tests were (sic) the basis of alleged unregistered electric consumptions and adjusted billings. On another occasion, the defendant's men conducted an inspection, and made it appear in their report, that plaintiff's men (sic), named Romeo Bumatay was present although he was not. He was simply asked to sign the field metering order. These do not constitute conclusive and decisive proof of electric pilferages. These evidence do not appear satisfactory to human experience and knowledge.

"Again, the defendant, professing to be faultless, admit having committed mistakes. In one incident, defendant was in error in reading and computing plaintiff's consumption. (Exhibit R)."^[8]

Accordingly, the decretal portion of the decision reads as follows:

"WHEREFORE, judgment is hereby rendered, in favor of the plaintiff and against the defendant, ordering:

"(1) The latter not to disconnect the electrical installations of the plaintiff;

"(2) The latter not to threaten, coerce, or force the plaintiff to pay P2,807,801.06, representing alleged unregistered consumption of electricity;

"(3) The latter to return or reimburse to the plaintiff, the P100,000.00, which was paid by the plaintiff, under protest and duress;

"(4) The latter, to pay the plaintiff the sum of P100,000.00, by way of exemplary damages;

"(5) The latter, to pay the plaintiff, P20,000.00, by way of attorney's fees and expenses of litigation; and

"(6) The latter to pay the costs.

"SO ORDERED."^[9]

On December 14, 1990, petitioner filed with the trial court a notice of appeal to the Court of Appeals.^[10]

On August 26, 1996, the Court of Appeals promulgated a decision affirming *in toto* the trial court's decision.^[11]

The Court of Appeals held:

"The procedures resorted to by appellant leave much to be desired in terms of transparency and rudimentary fairness. While the inspections

were allegedly conducted in the presence of representatives of appellee - as in fact the inspection reports carry the signature of a representatives were sufficiently knowledgeable about the subject and manner of the inspections but also the representatives concerned actually impugned the high-handed manner by which said inspections were conducted. Hence, their signatures on the inspection reports may confirm the fact of the inspection but not necessarily the accuracy of the findings made therein. Thus, in a blottered report to the Police, a complaint had been lodged against appellant's personnel for the high-handed manner by which they entered the premises of appellee and simultaneously opened everything in the metering installation. It is altogether possible that defects may have been found in the meter in appellee's premises. Connections could be corroded; nuts and bolts could be loosened; parts could have been broken due to the forcible manner the inspection was conducted. Significantly, there is uncontradicted evidence that the subject meter was in a padlocked box the key to which is held by appellant's personnel but that the box had to be opened by appellant's men with a bolt cutter."

Hence, this appeal.^[12]

The Issues

The issues to be resolved are: (a) whether MACRO tampered with the electric consumption meters, and (b) whether MERALCO correctly computed MACRO's adjusted bills.

The Court's Ruling

We affirm the ruling of the Court of Appeals. The issues raised are factual. We cannot review such issues.^[13]

At the outset, it must be stated that Presidential Decree No. 401 issued on March 1, 1974, was in full force and effect at the time material hereto.

The decree penalized unauthorized installation of water, electrical or telephone connections and such acts as the use of tampered electrical meters. The decree was issued in answer to the "urgent need for putting an end" to illegal activities that "prejudice the economic well-being of both the companies concerned (such as the Manila Electric Company) and the consuming public."

On December 8, 1994, Congress enacted Republic Act No. 7832, known as the "Anti-electricity and Electric Transmission Lines/Materials Pilferage Act of 1994." The law penalizes tampering, installing or using a tampered electrical meter and shorting or shunting wire or any other device that interferes "with the proper or accurate registry or metering of electric current or otherwise results in its diversion in a manner whereby electricity is stolen or wasted."^[14] The law enumerates circumstances constituting *prima facie* evidence of illegal use of electricity that shall be the bases for the immediate disconnection of electric utility after due notice to the erring user, the holding of a preliminary investigation and the subsequent filing of information.^[15]