

**BALIUAG ELECTRIC LIGHT AND POWER COMPANY, INC.,
PETITIONER, VS. HON. JUAN F. ECHIVERI, IN HIS CAPACITY AS
PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF BULACAN
(BRANCH IV) A...**

G.R. No. L-35105. May 31, 1982

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

Petition for certiorari and prohibition, with prayer for preliminary mandatory injunction, to annul and set aside the order of respondent Judge Juan F. Echiveri, authorizing the issuance of a writ of preliminary mandatory injunction in Civil Case No. 325-B of the Court of First Instance of Bulacan, Branch IV.

Petitioner Baliuag Electric Light and Power Co. Inc. is the holder of a franchise to distribute and supply electricity in the towns of San Rafael, San Ildefonso, Bustos and Baliwag, in the province of Bulacan. Under a contract executed on June 11, 1964 [1], petitioner had been supplying electric power to respondent Virginio Santiago, the owner and operator of an ice plant known as the "San Rafael Ice Plant".

In November 1970, petitioner filed an application with the Public Service Commission, P.S.C. for short, for revision of the rates of charges for power and energy sold by it; and the PSC, after due hearing, rendered a decision, dated August 5, 1971, authorizing petitioner to charge and collect increased rates "effective immediately." This decision was thereafter challenged before this Court in a petition filed by the Municipality of Baliwag, but the same was denied for "being factual (insufficient showing that the findings of facts are unsupported by substantial evidence) and for lack of merit" (L-34086, Sept. 27, 1971).[2]

On December 26, 1971, respondent Virginio Santiago filed with the PSC a petition for reclassification and/or readjustment of the new rates, docketed therein as Case No. 73-01-C[3], alleging that the approved schedule of rates was unreasonable and exorbitant and that he could not continue operating under the revised rates. Santiago thus proposed a reduction or a reclassification of rates to be applicable exclusively to ice plant operators.

Meanwhile, petitioner made several demands for payment under the revised rates, but Santiago insisted on paying under the old rates pending resolution of his petition for reclassification or readjustment before the PSC.

By reason of his refusal to pay under the new rates, his bills amounted to P14,733.60 as of February 16, 1972. Hence, petitioner, after notice, disconnected the electric power of Santiago's ice plant and then filed in the Court of First Instance of Bulacan a collection suit against him, docketed as Civil Case No. 328-B.[4]

On March 6, 1972, Santiago instituted a petition for mandamus against petitioner in the Court of First Instance of Bulacan, Branch IV, presided by the respondent Judge Juan F. Echiveri, docketed as Civil Case No. 325-B, seeking the issuance of a writ of preliminary mandatory injunction to restore the electric power to his ice plant on the ground that "unless an injunction is issued, his petition for readjustment of rates pending in the Public Service Commission x x x x x would become moot and academic x x x ."[5]

Finding sufficient reasons therefor, the respondent judge entered the order of May 15, 1972 granting the issuance of the writ applied for, upon the filing of a bond in the amount of P15,000.00. Pertinent portion of the questioned order reads as follows:

"x x x the Court, after a careful evaluation of the issues raised by the parties and after considering the conditions obtaining between the parties with the end in view of comparing the damages which the parties will sustain by reason of its issuance, pending the determination of the issues in the above-entitled case on the merits, and it appearing that in both cases filed before this Court as well as in the petition filed by herein petitioner with the Public Service Commission the interest of herein petitioner will be protected as well as that of the respondent with the filing of the petitioner of a bond, the Court, in the interest of justice and to maintain the status quo between the parties, hereby grants the Motion for Preliminary Mandatory Injunction filed by petitioner and restoring the conditions obtaining between the parties before the filing of this case. x x x"

Petitioner moved to dissolve the writ of injunction, claiming that Santiago had not shown a clear legal right thereto; that the contract entered into by the parties allowed disconnection of electric power for non-payment of bills; that the revised rates approved by the PSC had been affirmed by this Court; and that Santiago has no legal personality to ask for reclassification or readjustment of rates, he not being an oppositor in the rate case before the PSC.

Upon denial of its motion for reconsideration, petitioner filed the instant petition, charging respondent judge with grave abuse of discretion for not dismissing the case and for not dissolving the writ of injunction.

It appears, however, that on February 13, 1973, the Board of Power and Waterworks, formerly the PSC, issued an extended resolution dismissing Santiago's petition for readjustment of the schedule of electric rates. Said dismissal dissolved as a matter of course the writ of preliminary mandatory injunction issued by Judge Echiveri and rendered the same *functus officio*. This must be so, for the writ was intended to be effective only during the pendency of said petition before the Board of Power and Waterworks.

There being no more impediment for the enforcement of the revised rates approved by the PSC, the pending collection suit, Civil Case No. 328-B of the Court of First Instance of Bulacan, becomes moot and academic, except for the determination by the said court of the amount payable by Santiago to petitioner.

WHEREFORE, the writ of preliminary mandatory injunction issued by the respondent judge is hereby lifted; and the respondent Virginio Santiago is ordered to pay petitioner all his past electric bills in accordance with the approved rates within ninety (90) days from determination by the Court of First Instance of Bulacan in Civil Case No. 328-B of the amount thereof, otherwise petitioner may enforce payment by execution and disconnect the electric power of Santiago's ice plant.

SO ORDERED.

Barredo, (Chairman), Guerrero, Abad Santos, and De Castro, JJ., concur.
Aquino, J., no part.
Concepcion, Jr., J., is on leave.

[1] Annex A, Petition.

[2] Annex C, Petition.

[3] Annex D, Petition.

[4] Annex I

[5] p. 97, Rollo.

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