

**CARIDAD CRUZ DE SYQUIA PETITIONER, VS. BOARD OF POWER AND WATER WORKS (FORMERLY PUBLIC SERVICE COMMISSION),
RAFAEL J. RUIZ, PETER ENRIQUEZ AND CYRIL D. MOSES,
RESPONDENTS.**

G.R. Nos. L-42783-85. November 29, 1976

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court sets aside respondent board's orders ruling upon the complaints of the three private respondents-tenants of petitioner's apartment building that petitioner may not charge them pro rata the extra cost of electricity consumed for the building's common areas and facilities such as the elevator and servants' quarters. The question of the proportionate amount that each tenant should bear for the additional electricity cost for common facilities of the apartment building used by the tenants in common is purely civil in character, (involving the conditions of lease between landlord and tenant), to be adjudged under the applicable civil laws exclusively by the regular courts of general jurisdiction and is beyond the jurisdiction of respondent board.

In December, 1974, private respondents filed three separate complaints with respondent Board of Power and Waterworks charging petitioner as administrator of the South Syquia Apartments at Malate, Manila with the offense of selling electricity without permit or franchise issued by respondent board, in that petitioner billed respondents-complainants various specified amounts for their electricity consumption at their respective apartments for the months of May to September, 1974 in excess of the Meralco rates authorized by respondent board.

Petitioner's motion to dismiss the complaints asserting that they involved contractual obligations of respondents as apartment tenants and were beyond respondent board's jurisdiction was denied by the latter.

Petitioner thereupon filed her answer, wherein she again questioned the complaints as beyond the jurisdiction of respondent as a regulatory board, since she is not engaged in the sale of electric power but merely passes to the apartment tenants as the end-users their legitimate electric current bills in accordance with their lease contracts, and their relationship is contractual in nature.

Petitioner added that the tenants including respondents had no complaint under the contractual set-up of billings for water and electric service consumption, whereby while individual electric meters are installed in each apartment, Meralco billings include all consumption in the entire compound, including the common areas, servants' quarters and elevators, the payment for which was advanced by petitioner and later collected by way of reimbursement from the tenants pro rata; but that respondents alone complained later when on account of the energy crisis, additional fuel adjustment costs were added by Meralco to their billings which were likewise passed on by petitioner to all the tenants pro rata.

As stated in respondent board's questioned order of August 28, 1975, petitioner further manifested her willingness

to abide by such computations as respondent board may determine to be the correct electric billing that should be charged against complainants-respondents for their respective electric consumption and submitted pertinent records of the electrical consumption and Meralco billings. Respondent board in said order however came up with its computation which would allow petitioner to charge respondents only the cost of electricity registered in their individual apartment meters and disallow the actual cost of additional electricity charged them pro rata by petitioner for the cost of electricity consumed by all tenants in the common areas.

When petitioner pointed out in her motion for reconsideration that respondent board's computation would not reimburse petitioner for the cost of the electric consumption in the common areas and elevators with a resultant loss to her at the least of P1,250.00 a month or P15,000.00 a year and reiterated that this was a contractual obligation of the tenants over which respondent regulatory board had no jurisdiction, the board, acting through its Acting Chairman alone, Cesar S. de Guzman, (as seems to be the case with all the board actions herein involved) denied reconsideration and ruled that

"It is the considered opinion of this Board, that since the tenants (complainants) are already paying rentals for the use of their rooms and for the cost of their electricity within their rooms, they should no longer be required to pay for the extra cost of electricity in common areas such as the elevator and the servants' quarters, for it is only fair and equitable that the cost of electricity for common areas such as the elevator and servants' quarters be shouldered alone by the owner of the building as part of the cost for the rentals being paid by the tenants (complainants). x x x"

Hence, the petition at bar, wherein petitioner raises the basic question of the board's lack of jurisdiction, aside from the error of its action based on the admitted facts.

The Court required comment and private respondents as well as respondent board's counsel filed their comments simply assuming the board's jurisdiction and supported its questioned orders.

Also required to comment, Acting Solicitor General Hugo E. Gutierrez, Jr. concurred with petitioner and submitted that respondent regulatory board acted without jurisdiction over the subject-matter of the complaints, succinctly stating the State's position as follows:

"Since the petitioner does not operate, manage or control the power plant and furthermore, since electricity is directly and uninterruptedly supplied to the end-user, it cannot be correctly claimed that the petitioner is selling electricity nor can she be considered a middleman in the electric power business.

"The dispute between the petitioner landlord and her tenants as to how much each tenant should be correspondingly billed, for the actual electricity consumed and as to the proportionate amount each tenant should bear for the common facilities used in the apartments, if such amounts should be borne by the tenants at all, is an issue affecting mathematical computations and conditions of lease between landlord and tenant. "

The Court resolved to treat the petition as a special civil action and to grant the petition. Under the reorganization plan effected by Presidential Decree No. 1 as amended by Presidential Decree No. 458 issued on May 16, 1974, jurisdiction, supervision and control over public service related to electric light, power and waterworks utilities formerly vested in the Public Service Act[1] were transferred to respondent board.

Respondent board as a regulatory board manifestly exceeded its jurisdiction in taking cognizance of and adjudicating the complaints filed by respondents against petitioner.

Respondent board acquired no jurisdiction over petitioner's contractual relations with respondents-complainants as her tenants, since petitioner is not engaged in a public service nor in the sale of electricity without permit or franchise.

Respondents' complaints against being charged the additional cost of electricity for common facilities used by the tenants (in addition to those registered in their respective apartment meters) give rise to a question that is purely civil in character that is to be adjudged under the applicable provisions of the Civil Code (not the Public Service Act) and not by the respondent regulatory board which has no jurisdiction but by the regular courts of general jurisdiction.

Respondent board in resolving the complaints against petitioner and requiring her to absorb the additional rising costs of electricity consumed for the common areas and elevator service even at a resultant loss of P15,000.00 a year arrogated the judicial function. Its orders were beyond its jurisdiction and must be set aside as null and void.

ACCORDINGLY , the questioned orders of respondent board are annulled and the complaints of private respondents are ordered dismissed. With costs against private respondent. SO ORDERED.

Makasias, Muñoz Palma, Concepcion, Jr., and Martin, JJ., concur.

[1] Sec. 13 (a) of the Public Service Act, C.A. No. 146, provides that: "The Commission shall have jurisdiction, supervision, and control over all public services and their franchises, equipment, and other properties, and in the exercise of its authority, it shall have the necessary powers and the aid of public force".

Sec. 13 (b) defines the term "public service" thus: "The term 'public service' includes every person that now or hereafter may own, operate, manage, or control in the Philippines, for hire or compensation, with general or limited clientele, whether permanent, occasional or accidental, and done for general business purposes. x x x gas, electric, light, heat and power, water supply and power x x x".

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