

DAGUPAN ELECTRIC CORPORATION, ISABELITA L. LLAMES, PRIMO C. NARVAEZ AND JOSE T. APIGO, PETITIONERS, VS. THE HONORABLE ERNANI CRUZ PAÑO, DISTRICT JUDGE OF THE COURT OF FIRST INST...

G.R. No. L-49520. January 28, 1980

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is an original special civil action for certiorari and prohibition to annul the proceedings in Civil Case No. Q-26502 of the Court of First Instance of Rizal, Branch XVIII, Quezon City, entitled "MC Adore Finance and Investment, Inc., plaintiff, versus, Dagupan Electric Corporation, et al., defendants" on the ground of lack of jurisdiction and to prohibit the respondent judge from proceeding further in the case, with a prayer for the issuance of a writ of preliminary injunction filed by Dagupan Electric Corporation, Isabelita L. Llames, Primo C. Narvaez and Jose T. Apigo against Hon. Ernani Cruz Paño, District Judge of the Court of First Instance of Rizal, Branch XVIII, and MC Adore Finance and Investment, Incorporated.

The pertinent allegations of the petition are:

"5. That petitioner DECORP is a legislative franchise holder to operate and maintain for profit electric services within its franchised area comprising the City of Dagupan and the towns of Sta. Barbara, Calasiao, San Jacinto and San Fabian, all in the province of Pangasinan, and that its generating plant is located in San Miguel, Calasiao, Pangasinan;

"6. That private respondent MC Adore is the owner of the MC Adore International Palace Hotel which is located in the City of Dagupan and which became operational in March, 1978;

"7. That private respondent MC Adore is a customer of the petitioner;

"8. That for failure on the part of private respondent MC Adore to pay its September and October 1978 bills, the petitioner served a Notice of Disconnection on November 25, 1978 that unless payment is made within the usual period of 48 hours, the disconnection of service will be made, hence on November 27, 1978 at 1:15 p.m., after the expiration of the 48 hour period and no payment was made, the petitioner corporation disconnected the electrical services to the former;

"9. That on December 6, 1978, respondent MC Adore filed a complaint for damages with writ of preliminary mandatory injunction against the petitioner corporation in the Court of First Instance of Rizal, Branch XVIII, presided by the respondent judge, and which complaint was docketed as Civil Case No. Q-26502, a xerox copy of which is hereto attached as Annex 'A' and made an integral part of this petition; Amended Complaint, Annex 'A-1';

"10. That on the same date, December 6, 1978, the respondent judge, issued ex parte Order for a preliminary mandatory injunction, commanding the petitioner corporation as well as its agents in Dagupan City to 'restore immediately not later than 5:00 p.m., December 7, 1978, the electrical power of the MC Adore International

Palace Hotel and resume the electrical supply of all the electrical services and facilities to said hotel to enable plaintiff to operate it fully, under pain of contempt for violation thereof.' and in the same Order, the respondent judge set the application for preliminary mandatory injunction for hearing on December 11, 1978 at 9:00 o'clock in the morning. A certified xerox copy of said Order is hereto attached as Annex 'B' and made an integral part hereof;

"11. That on December 8, 1978, the private respondent also moved that its 'cash bond in the sum of P50,000.00 represented by Check No. 12100 of the Bank of Philippine Islands payable to the clerk of court' be substituted by a surety bond. A copy of said motion is hereto attached as Annex 'C';

"12. That for failure of the petitioner and its agents in Dagupan City to comply with the aforesaid preliminary mandatory injunction, MC Adore filed a petition to declare defendant Corporation and its corporate officers in contempt of court, also on the same day, December 8, 1978. A xerox copy of said petition is hereto attached as Annex 'D' and made an integral part hereof;

"13. That also on the same date, December 8, 1978, acting on the said petition for contempt, Annex 'C', the respondent judge issued an order, the pertinent portion of which reads as follows:

'In today's hearing nobody appeared for defendant Dagupan Electric Corporation, the Court finds that pursuant to Sec. 3, (Rule 71), Rules of Court and without finally resolving whether defendant's corporate officers may be adjudged in contempt, the Court finds that their corporate officers, except Atty. Leonardo Baro may be held in custody until the order is complied, as the Court finds no valid justification for this contumacious disobedience. Defendant Corporation has its head offices in Quezon City, and although the plant is in Dagupan City, the plant can only act upon orders of the Quezon City head office. The Court pursuant to Sec. 3, Rule 71, Rules of Court orders the arrest and confinement of Isabelita Llames, President of defendant corporation, Primo Narvaez, General Manager of defendant corporation and Jose Apigo if by 12:00 o'clock midnight, December 8, 1978 the mandatory injunction is not complied with, and for detention to continue until the order is complied with. The Commanding General of the Philippine Constabulary and the Provincial Commander of the Philippine Constabulary in Pangasinan are ordered to enforce this order if by midnight December 8, 1978 the mandatory injunction is not complied with. This order of arrest is deemed cancelled if the restoration is made within the aforesaid period, without prejudice to the Court considering whether the respondents may be adjudged guilty of contempt correspondingly punished.'

A certified xerox copy of the said Order is hereto attached as Annex 'E' and made an integral part hereof;

"14. That on December 11, 1978, the date for hearing of the petitioner for preliminary mandatory injunction, as set in the Order of December 6, 1978, the petitioner corporation appeared and moved for the reconsideration of the Orders of December 6, 1978 and December 8, 1978, Annexes 'B' and 'E', for want of jurisdiction, excess of jurisdiction or grave abuse of discretion. A copy of the Motion for Reconsideration is hereto attached and marked as Annex 'F';

"15. That the respondent judge in an order dated December 19, 1978, denied the petitioner's motion for reconsideration, and further ordered the enforcement of the preliminary mandatory injunction, specifically its order of December 6, 1978, Annex 'B'. A certified xerox copy of said order is hereto attached and marked as Annex 'G';

"16. That the private respondent MC Adore, even before the Order of December 19, 1978, was served upon the petitioner, has already mobilized the police authorities to arrest the petitioners, and to enforce the preliminary mandatory injunction, which in effect constitutes final judgment in the case even before the petitioners have answered the complaint in the civil case before the respondent judge;

"17. That in the light of the earlier actuations of the respondent judge, more particularly the issuance of the Order of December 8, 1978, there is imminent danger that the petitioners may be unlawfully deprived of their liberty, as well as their property, without due process of law, to which there is no appeal or any plain, speedy

and adequate remedy in the ordinary course of law, as in fact, the respondent court has just issued the two other orders today which are hereto attached and marked as Annexes 'h' and 'I' respectively;

"18. That there is no appeal from the orders of December 6, 8, and 19, 1978, and there is no other plain, speedy and adequate remedy in the ordinary course of law.

"19. That pending the resolution of this petition, only a writ of preliminary injunction issuing from the Honorable Supreme Court can stop the enforcement of the void Orders complained of thru subsequent orders of the respondent court designed to implement the void orders complained of; x x x." [1]

In a resolution dated January 3, 1979, this Court, without giving due course to the petition, required the respondents to comment thereon.[2]

The private respondent, MC Adore Finance and Investment, Inc., in its comment filed on March 7, 1979, alleged:

"Respondent MC ADORE is the owner and operator of the Mc Adore International Palace Hotel located at Dagupan City, Philippines, which is a five-star hotel costing P75M in which the government through the Development Bank of the Philippines has a 75% equity. In a relatively short span of time, the hotel has earned an excellent reputation in the tourism industry, particularly in Dagupan City and its environs. On the other hand, respondent (should be petitioner) DECORP is engaged in the business of supplying electricity in Dagupan City BUT its principal office and executive address is at Suite 201 Delta Building West Avenue, Quezon City. Its modus operandi or system of business operation is to buy electric power from the National Power Corporation and retails this, in turn, to its customers in Dagupan City, such as MC ADORE.

"On or about October 29, 1977, respondent MC ADORE engaged the services of petitioner DECORP to supply electric power to the aforementioned MC ADORE HOTEL by depositing with petitioner DECORP the amount of P35,000.00 for consumption and the amount of P25,000.00 for the extension line of 313.8 KV; that, however, the Polyphase meter at the said hotel and the transmission line from DECORP to the hotel were installed and paid for by MC ADORE by its own expenses although the same were the obligation and duty of petitioner DECORP; that, actually, it was only sometime in March, 1978, that plaintiff utilized or consumed electric power during the process of testing the centralized air-conditioning system of the hotel building until the end of April, 1978.

"The electric bills for the months of March and April, 1978 in the amount of P67,221.00 and P65,822.47, respectively, were duly and fully paid for by respondent MC ADORE to petitioner DECORP.

"Pursuant to MC ADORE's energy conservation program in line with governmental policy to this effect, and because the testing period of the centralized air-conditioning system had been successfully terminated, the electric consumption of MC ADORE for May, 1978 significantly lowered and its electric bill for said period amounted to only P35,707.85 which MC ADORE likewise diligently and fully paid to the petitioners.

"Sometime on or about July 10, 1978, petitioners sent its (sic) electric bills to respondent MC ADORE in the amount of TWENTY FIVE THOUSAND THREE HUNDRED EIGHTY & 70/100 (P25,380.70) PESOS covering the electrical consumption of the hotel for the period May 31 to June 30, 1978.. Immediately after having sent to MC ADORE the said electric bill, petitioners, by means of fraud and deceit, retrieved said Bill and summarily wrote on the face of the bill the word 'ERRONEOUS'.

"To complicate matters and aggravate the injury to MC ADORE, petitioners on or about July 12, 1978, without the knowledge and consent of MC ADORE, surreptitiously removed the electric meter of the hotel and made some adjustments and reinstalled the same.

"MC ADORE strongly protested against petitioners' above-described unlawful and malicious acts but petitioners sent instead to respondent MC ADORE on July 26, 1978 an electric bill unilaterally prepared by petitioners for the period May 31 to June 30, 1978 in the amount of EIGHTY THOUSAND TWO HUNDRED

FORTY THREE & 62/100 (P80,243.62) PESOS thereby changing without justifiable basis the original bill for P25,380.70.

"In due course, MC ADORE filed with the Board of Power and Waterworks a complaint against the petitioners dated August 12, 1978 and subsequently amended on August 21, 1978, demanding redress from petitioners' illegal and highhanded acts, as a result of which the Board of Power and Waterworks issued an Order dated August 18, 1978 directing petitioners to 'refrain from disconnecting electric service of MC ADORE International Palace, Dagupan, pending resolution of Letter-Complaint dated August 12, 1978.'

"Instead of complying with the Restraining Order of the Board of Power and Waterworks, petitioners sent to MC ADORE on November 25, 1978, a Saturday, at about 1:00 o'clock p.m. when banking facilities were already closed, a notice of disconnection, and, two (2) days later, or on November 27, 1978, petitioners disconnected electrical power to the respondent's Mc Adore Hotel, without any legal or factual basis and justification, thereby causing to the respondent MC ADORE tremendous actual damages and losses in an amount of not less than Five Million (P5,000,000.00) Pesos and such other sum representing moral, exemplary and other damages that shall be proved at the trial, as duly claimed in the Amended Complaint (Annex 'A-1, Petition).

"After the illegal and unlawful disconnection of the electrical powers of the hotel made by petitioners as alleged hereinabove, the Board of Power and Waterworks required petitioners, particularly petitioner Isabelita Llamas, in a letter dated December 1, 1978, duly received on the same date by petitioner DECORP, to re-connect immediately electric powers and service to the hotel, but petitioners likewise did not obey this, and by said unwarranted disobedience and open defiance rendered the Board of Power and Waterworks helpless and impotent to protect the rights of the respondents MC ADORE; hence, with all the more reason, the present action before the lower court is respondent's effective remedy.

"As a matter of fact, respondent MC ADORE had already invited foreign guests and local patrons to the hotel's commitment to Penthouse 7 scheduled and to be televised on December 9, 1978 for which respondent MC ADORE had already paid Penthouse 7 and that several tickets had already been sold, and that several guests had already checked in to the hotel but due to the complete power breakdown of the hotel brought about by petitioners' above-described malicious, unlawful and malevolent acts, the said guests had to transfer to other hotels and/or residences and other expected guests and patrons were likewise forced not to check-in to the hotel, thereby also causing additional tremendous losses and damages to MC ADORE.

"Respondent MC ADORE (Plaintiff in the court below), was thus constrained to file before the court a quo a complaint for damages with writ of preliminary mandatory injunction docketed as Civil Case No. Q-26502 (Annex A of Petition) which was later on amended so as to include petitioner DECORP's executive officers Isabelita Llamas, Primo Narvaez and Jose T. Apigo (who are also petitioners in this case), per Amended Complaint filed with the lower court on December 14, 1978, Annex A-1 Petition. While the petitioners make reference to the orders of December 6 and 8, 1978, Annexes B and E of the Petition, petitioners however have completely omitted the fact that on December 11, 1978, the lower court issued the following order which we reproduce hereunder:

'Considering the manifestation of the parties, and it appearing that defendant corporation as well as its corporate officers strongly disputes the factual allegations of the petition as it is claimed that petitioner is in arrears in the payment of its electric bill in the amount of almost half a million pesos; and it appearing further that this matter is also pending before the Board of Power, the Court in the interest of justice suspends the enforcement of the warrant of arrest issued on December 6, 1978, as well as its mandatory injunction pending a full hearing on the facts leading to the disconnection of the electrical facilities of petitioners. The Court orders the parties to submit memoranda with supporting affidavits in support of their respective claims.

Let this case be reset to December 15, 1978, at 10:00 o'clock in the morning.

SO ORDERED.'

"The above-quoted Order shows that the injunction incident was fully discussed and ventilated before the lower court and that the parties submitted exhaustive memoranda and affidavits in support of their respective claims, after which full hearing the lower court issued its order of December 19, 1978, Annex G Petition. Emphasis is made on the Order of December 11, 1978 to highlight the fact that the subsequent order of December 19, 1978, now sought to be reviewed by the petitioners, was issued by the lower court after full hearing on the controversy."[3]

This Court issued a resolution dated March 14, 1979 which reads:

"L-49520 (Dagupan Electric Corporation, et al. vs. Hon. Ernani Cruz-Paño et al.). - Considering the allegations, issues and arguments adduced in the petition for certiorari and prohibition with preliminary injunction as well as private respondents' comment thereon, the Court Resolved: (a) TO GIVE DUE COURSE to the petition; and (b) to REQUIRE (1) the petitioners to deposit P80.40 for costs and clerk's commission within five (5) days from notice hereof; and (2) both parties submit simultaneous memoranda within thirty (30) days from notice hereof. As prayed for, let a TEMPORARY RESTRAINING ORDER issue restraining respondents from enforcing or continuing to enforce the orders of December 6, 1978 and December 12, 1978 all issued in Civil Case No. Q-26502, entitled 'MC Adore Finance & Investment, Inc., Plaintiff, versus, Dagupan Electric Corp., Defendant' of the Court of First Instance of Rizal, Branch XVIII at Quezon City, unless within five (5) days from notice, respondent (1) files a counter bond of P225,000.00 to cover payment of its account in arrears with petitioner, stated by petitioner to be in the sum of P466,099.15; (2) shows that it has made regular payment petitioner and continues to make regular monthly payments of its monthly electrical consumption after reconnection as per the monthly bills presented by petitioner."[4]

On March 21, 1979 the private respondent manifested that it had filed a counterbond of P225,000.00 and that since the reconnection of electrical power was effected on December 22, 1978 it had been depositing with the lower court the sum of P35,000.00 beginning January 1979 in compliance with the order of said court of December 19, 1979.[5]

In a motion filed on April 10, 1979 by the petitioners it is alleged that on March 29, 1979 the Dagupan Electric Corporation sent a letter to the private respondent requesting payment of its monthly bills from December 22, 1978 up to February 1979; that the said letter was received by the private respondent on March 29, 1979; and that despite the lapse of 12 days since the private respondent had received the billings of the Dagupan Electric Corporation, no payment had been made; and prayed that this Court "declare its temporary restraining order effective" so that the petitioner may act accordingly.[6]

The private respondent MC Adore Finance and Investment, Inc. opposed the motion of the petitioners dated April 10, 1979 and asked that the temporary restraining order of March 14, 1979, in so far as it orders MC Adore to make regular monthly payments to the petitioners of the monthly electrical consumption after reconnection "as per the monthly bills presented by petitioners" be lifted and/or set aside inasmuch as the meter had not yet been tested and sealed by the Board of Power.[7]

On May 12, 1979, the petitioners filed an urgent supplemental motion reiterating their prayer that they be allowed to disconnect the electric power from the hotel of the respondent MC Adore Finance and Investment, Inc. on the ground that said respondent had failed and refused to pay its electric power consumption based on the actual meter readings as directed by this Court.[8]

This Court issued on May 18, 1979 the following resolution:

"L-49520 (Dagupan Electric Corporation, et al. vs. Hon. Ernani Cruz Paño, etc., et al.) - Upon consideration of petitioners' manifestation and motion with prayer that the Court's temporary restraining order of March 14, 1979 be declared effective, and respondent McAdore Finance and Investment, Inc.'s opposition thereto as well

as petitioners' manifestation and urgent supplemental motion praying that they be allowed to redisconnect electric power from the premises of said respondent in implementation of said restraining order, the Court Resolved to GRANT petitioners' prayer declaring effective the Temporary Restraining Order of March 14, 1979 and allowing petitioners to disconnect the electric power at the premises of respondent if within ten (10) days from notice hereof, the total amount due from said respondent to petitioner corporation by way of payment of respondent's electric consumption after reconnection (on December 22, 1978) as per the monthly bills presented by petitioner is not fully paid.

The Court expressly laid down two (2) conditions for the suspension of the effectivity of the temporary restraining order under its resolution of March 14, 1979, namely: (a) the filing of a counterbond of P225,000.00 to cover payment of respondent's account in arrears with petitioner, stated by petitioner to be in the sum of P466,099.15; and (b) that respondent show that 'it has made regular payment to petitioner and continues to make regular monthly payments of its monthly electric consumption after reconnection as per the monthly bills presented by petitioner.' And it ill behooves respondent after availing of said conditions for suspension of the restraining order to now renege on making such monthly payments and belatedly ask for the setting aside of such condition.

The urgent motions of petitioners for first and second extensions totalling thirty (30) days from April 22, 1979 within which to file memorandum, are GRANTED.

The letter dated April 22, 1979 of Ms. Modesta R. Sabeniano, President and Chairlady of the Board of McAdore International Palace, addressed to Acting Chief Justice Enrique M. Fernando, in amplification of her telegrams requesting among others, for the early disposition of this case, and said respondent McAdore International Palace's memorandum in this case, are NOTED."^[9]

The private respondent, MC Adore Finance and Investment, Inc., filed on May 24, 1979 an urgent motion to hold in abeyance compliance with the second portion of the resolution dated March 16, 1979 in relation to the resolution dated May 21, 1979 (should be May 18, 1979) on the ground that the current monthly bills being presented by the petitioner, Dagupan Electric Corporation, to private respondent are the result of readings taken from the electric meter which was tampered and asked that it be allowed to continue depositing the regular payment in the amount of P35,000.00 per month with the respondent court until such time that the issue on the tampered meter and questionable bills shall have been finally resolved.^[10]

On May 28, 1979, this Court issued the following resolution:

"L-49520 (Dagupan Electric Corporation, et al. vs. Hon. Ernani Cruz-Paño, et al.) - The motion of Attys. Teves, Campos, Hernandez, and Lim for leave to withdraw as counsel for respondent McAdore Finance and Investment, Incorporated, and the urgent motion of petitioner for an extension of ten (10) days from May 22, 1979 within which to file memorandum and reply, are GRANTED. Considering respondent's urgent motion to hold in abeyance compliance with the second portion of the resolution of March 16, 1979 in relation to the resolution of May 21, 1979, the Court Resolved to REQUIRE petitioner (a) to COMMENT thereon; and (b) to SUBMIT to this Court, a month by month itemization of the accrued electric bills of respondent from December 22, 1978 (date of reconnection) to April 1979 stated by petitioner to total P378,669.49 in its manifestation and urgent supplemental motion of May 11, 1979 and whether such bills were based on the electric meter readings or some other mode of computation, both within five (5) days from notice hereof.

Pending receipt of such comment and until further orders of this Court, implementation of the May 18, 1979 resolution allowing petitioner to disconnect the electric power in respondent's premises if the aforesaid accrued monthly bills since reconnection are not fully paid, shall be HELD in abeyance. Meanwhile, in order to avoid future disputes as to the monthly readings taken from the allegedly tampered meter, the Court DIRECTS both parties or either of them to forthwith make representations with the Board of Power and Waterworks (1) to immediately REPLACE the electric meter presently installed in respondent's premises with a new sealed one at

respondent's expense; and (2) to CONDUCT with prior notice to and in the presence of both parties and/or their duly authorized representatives, a check-up and verification of the present electric meter upon its removal and replacement with a new meter as to whether or not it has been tampered with, and to REPORT to this Court the action taken hereon and the results within five (5) days from notice." [11]

The private respondent, MC Adore Finance and Investment, Inc., manifested on June 5, 1979 that on June 1 and 2, 1979, a thorough check-up and investigation of the then existing power meter was conducted after which a new sealed meter was installed in replacement of the old one by a group composed of duly authorized representatives of the petitioner, Dagupan Electric Corporation, and the private respondent, together with the authorized representatives of the Board of Power.

Pursuant to this Court's resolution of May 28, 1979, the Acting Executive Director and the Officer-In-Charge of the Board of Power and Waterworks submitted on June 8, 1979 its report containing the following remarks:

"1.

The terminal covers of the potential and current transformers were sealed by the engineers of the Dagupan Electric Corporation after the wiring connections from the secondary terminals of the potential and current transformers to the terminals of the existing meter were traced and checked.

2.

The meter which was replaced, after it was tested and sealed by the Board of Power Technician, was placed in a carton box and sealed with masking tape. Signatures of representatives of both parties and the Board were made and appears on the masking tape. The said meter is in the custody of MC Adore International Palace.

3.

After the newly installed meter was checked for the correct rotation of the meter disc, the representatives of the Dagupan Electric Corporation sealed the meter terminal cover and KW demand re-setting lever and padlocked the meter box. This was done in the presence of the engineer of the MC Adore International Palace and representatives of the Board.

4.

The connection of the NEW meter is in accordance with the G.E. guide except for the consideration of line 1 (L1) and line 3 (L3) in diagram were interchanged. By redrawing and analyzing the circuit, the results conforms with the G.E. guide for installing watthour meters."

On June 13, 1979, the petitioners filed the following manifestation:

"1.

The petitioners have secured a copy of the Report and Findings of the Committee constituted by the Board of Power (BOP) composed of the BOP Chief Utilities Regulation Engineer Domingo C. Villanueva, BOP Electrical Engineer Margarito C. Gatabonton, and BOP Supervising Precision Instrument Technician Romeo R. Pulanco in accordance with the Resolution dated 28 May 1979 of this Honorable Tribunal and submit the said attached copy of the Report and Findings in compliance with the said Resolution.

2.

From the said Report and Findings, it can be seen that the meter then installed (before replacement) was 'wit in the limits of tolerance of plus or minus 3% allowed by the Board' (paragraph 2, page 2 of Report and Findings), meaning the meter then installed, upon which the electric billings sent by petitioner DECORP to private respondent was based, reflected the actual and true electric power consumption of the Hotel.

3.

It should be noted also that the new wiring connection of the meter now presently installed, which is in accordance with the Guide for Installing General Electric Watthour Meters (a wiring connection which is also correct and acceptable like the wiring connection 'as found') was upon the instance of the Electric Engineer of private respondent, Engr. Roque A. Barrientos (paragraph 4, page 2, of Report and Findings), so that private respondent would really not have any reason whatsoever for refusing to pay the future electric bills that will be sent by petitioner DECORP."

This Court issued on June 22, 1979 the following resolution:

"In L-49520 (Dagupan Electric Corporation, et al. vs. Hon. Ernani Cruz-Paño, etc. et al.), the Court Resolved: (a) to NOTE (1) petitioners' (1-a) comment on respondents' urgent motion and amended urgent resolution of March 16, 1979; (2-a) manifestation and compliance with the resolution of May 28, 1979; (3-a) manifestation and motion stating that they have made representations with the Board of Power and Waterworks in connection with the resolution of May 28, 1979; and (4-a) manifestation stating that they have already secured a copy of the report and findings of the committee constituted by the said Board of Power and Waterworks; (2) private respondent McAdore Finance & Investment, Inc.'s manifestation and motion alleging compliance with the resolution of May 28, 1979; (3) the compliance by the Officer-in-charge of the Board of Power and Waterworks with the resolution of May 28, 1979; and (4) the appearance of Atty. Teodoro P. Regino as counsel for private respondent McAdore Finance & Investment, Inc.; and (b) both petitioners and respondents having filed their respective memoranda, to declare this case SUBMITTED for decision."

The petitioners filed a motion on June 20, 1979 to cite Modesta Sabeniano for contempt for having signed the manifestation and motion dated June 4, 1979 for MC Adore Finance and Investment, Inc. when she is not a member of the bar and having unlawfully assumed to be a lawyer, thereby committing an act constituting contempt of court and reiterating that the petitioners be allowed to enforce the temporary restraining order.

The private respondent, MC Adore Finance and Investment, Inc., in turn, filed on June 25, 1979 a petition to cite for contempt DECORP General Manager Jose T. Apigo for having instituted a criminal complaint for theft in the Office of the City Fiscal of Dagupan City against Modesta R. Sabeniano for allegedly and unlawfully tampering with the MC Adore hotel's electric meter by interchanging the positions of the current leads at the terminal in the transformers thereby registering less electric current used by the hotel than actually consumed therein.

The petitioners filed on June 25, 1979 a manifestation of compliance and urgent motion stating that they had earlier registered their comment to the Amended Urgent Motion to Hold in Abeyance Compliance with the Second Portion of the Resolution dated March 16, 1979 by way of their comment on the private respondent's urgent motion dated May 31, 1979 and praying that the amended urgent motion filed by the private respondent be denied and that the petitioners be allowed to enforce the temporary restraining order contained in the resolution dated March 16, 1979.

This Court issued a resolution dated July 6, 1979 which reads:

"In L-49520 (Dagupan Electric Corporation, et al. vs. Hon. Ernani Cruz-Paño etc., et al.), the Court Resolved to DEFER action on petitioners' counter-manifestation and motion to strike out private respondent's manifestation and motion to cite Modesta Sabeniano for contempt and their manifestation of compliance with urgent motion, and respondent McAdore Finance & Investment, Inc.'s petition for contempt and opposition to petitioners' aforesaid motion to strike out and to cite Ms. Sabeniano for contempt, until decision on the merit of this case."

On July 19, 1979, the petitioners filed a manifestation and supplemental motion to implement the temporary restraining order alleging that on July 3, 1979, the petitioner Dagupan Electric Corporation sent a billing letter to

McAdore Finance and Investment, Inc. transmitting therewith the electric bill for private respondent's power consumption during the month of June 1979 in the amount of P90,269.26; that the said billing for June 1979 was based on a reading of the new electric meter which was installed at private respondent's hotel on June 2, 1979 by the Board of Power and Waterworks in the presence of the representatives of the parties in compliance with the resolution of this Court dated May 28, 1979; that notwithstanding the installation of the new meter and the rewiring of the connections in the meter system in private respondent's hotel which erased all doubts as to the correctness of the billings of DECORP against the private respondent in accordance with the said resolution of this Court dated May 28, 1979, the private respondent has continuously refused to pay its bills and prayed that the temporary restraining order dated May 14, 1979 be ordered implemented so that the petitioners may proceed to disconnect the electric power from private respondent's hotel.

The private respondent, MC Adore Finance and Investment, Inc., opposed the manifestation and supplemental motion to implement temporary restraining order on the ground that to grant at this stage the petitioners' several motions to implement the temporary restraining order so as to allow them to disconnect the electric power from the private respondent's hotel "would amount not only to a judgment but also to an order of execution thereof before the rights between the parties are finally and irrevocably determined."

Stripped of verbiage, unwarranted conclusions and irrelevant matters, the pertinent facts are that the petitioner, Dagupan Electric Corporation (DECORP), is a domestic corporation with principal office address at Delta Building, West Avenue, Quezon City; that pursuant to its business, it was granted the requisite franchise to operate and maintain electric services in the City of Dagupan and other towns in Pangasinan; that it has its principal office at Quezon City although its generating plant is located in Barrio San Miguel, Calasiao, Pangasinan; that the private respondent, MC Adore Finance and Investment, Inc., is also a domestic corporation with office at 148 N. Domingo, Cubao, Quezon City; that said private respondent owns and operates the MC Adore International Palace Hotel at Dagupan City; that on February 2, 1978, the private respondent, MC Adore Finance and Investment, Inc., executed a contract for power service with the petitioner DECORP; that the petitioner DECORP rendered full power service upon the premises of the hotel in March 19, 1978; that acting in the belief that the June 1978 bill in the amount of P25,380.70 was erroneous, the petitioner DECORP recalled the same and a corrected bill in the amount of P80,243.62 was sent to the private respondent; that the private respondent failed and refused to pay the aforesaid bill; that this prompted DECORP to issue on August 18, 1978 the usual 8-hours notice of disconnection in accordance with the terms of the contract executed between the parties; that thereafter, the private respondent complained with the Board of Power and Waterworks that the DECORP tampered with its electric meters; that upon its own representation, the private respondent was able to secure a telegram order issued by the Board of Power and Waterworks restraining DECORP from disconnecting power services from the premises of the hotel pending resolution of the complaint; that the parties allegedly negotiated a settlement and both arrived at an agreement before the Board wherein the private respondent undertook to pay the accrued bills of June and July in the amount of P76,058.38 and P77,609.70, respectively, and to pay the subsequent bills as they fall due; that the private respondent allegedly refused to pay the accrued bills; that in view thereof, the petitioner DECORP was constrained anew to serve the private respondent the 48-hours notice of disconnection for its refusal to pay the accrued bills; that consequently, on November 27, 1978 after forty-eight hours from notice had lapsed, the DECORP disconnected the power from the premises of the hotel; that the private respondent filed a complaint with a prayer for preliminary mandatory injunction on December 6, 1978 before the Court of First Instance of Rizal in Quezon City; that on the same day, December 6, 1978, the presiding judge, Hon. Ernani Cruz-Paño, issued an order granting the issuance of a preliminary mandatory injunction commanding the petitioner DECORP and its agents to "restore immediately not later than 5:00 P.M., December 7, 1978, the electrical power of the McAdore International Palace Hotel and resume the electrical

supplies of all the electrical services and facilities to said hotel to enable the plaintiff to operate it fully, under pain of contempt for violation thereof."; that on December 8, 1978, the private respondent filed a petition to declare the petitioners in contempt of court; that on December 8, 1978, the respondent judge issued an order, the pertinent portion of which reads:

"In today's hearing nobody appeared for defendant Dagupan Electric Corporation, the Court finds that pursuant to Sec. 3, Rules of Court and without finally resolving whether defendant's corporate officers may be adjudged in contempt, the Court finds that their corporate officers, except Atty. Leonardo Baro may be held in custody until the order is complied, as the Court finds no valid justification for this contumacious disobedience. Defendant Corporation has its head offices in Dagupan City, the plant can only act upon orders of the Quezon City head office. The Court pursuant to Sec. 3, Rule 71, Rules of Court orders the arrest and confinement of Isabelita Llamas, president of defendant corporation, Primo Narvaez, General Manager of defendant corporation, and Jose Apigo if by 12:00 o'clock midnight, December 8, 1978 the mandatory injunction is not complied with, and for detention to continue until the order is complied with. The Commanding General of the Philippine Constabulary and the Provincial Commander of the Philippine Constabulary in Pangasinan are ordered to enforce this order if by midnight December 8, 1978 the mandatory injunction is not complied with. This order of arrest is deemed cancelled if the restoration is made within the aforesaid period, without prejudice to the Court considering whether the respondent may be adjudged guilty of contempt correspondingly punished."

that on December 11, 1978, the petitioners filed a motion for reconsideration of the questioned orders dated December 6, 1978 and December 8, 1978 on jurisdictional ground; that on December 19, 1978, the respondent judge issued an order denying the petitioners' motion for reconsideration and ordering the enforcement of the questioned order dated December 6, 1978; and that, however, electric power on the premises of the hotel was not restored until December 22, 1978.

The main issue is whether or not the Court of First Instance of Rizal, Branch XVIII at Quezon City, has jurisdiction over Civil Case No. Q-26502 entitled "Mc Adore Finance and Investment, Inc. vs. Dagupan Electric Corporation, et al." and, as a corollary issue, whether the respondent judge acted with grave abuse of discretion in issuing the writ of preliminary mandatory injunction ordering the Dagupan Electric Corporation to restore the connection of the electric power to the hotel in Dagupan City owned and operated by Mc Adore Finance and Investment Corporation.

The pertinent provision of the Judiciary Act of 1948 reads:

"Sec. 44. Original jurisdiction. - Courts of First Instance shall have original jurisdiction:

x x x

(h) Said court and their judges, or any of them, shall have the power to issue writ of injunction, mandamus, certiorari, prohibition, quo warranto and habeas corpus in their respective provinces and districts, in the manner provided in the Rules of Court."

The petitioners contend that the Court of First Instance of Rizal at Quezon City has no jurisdiction over the case because the act of disconnecting the power to the hotel of the Mc Adore Finance and Investment, Inc. took place in Dagupan City, outside the Province of Rizal and Quezon City.

The respondents submit that the act of disconnection was the result of an order issued by the Dagupan Electric Corporation from its business office in Quezon City.

The Court of First Instance of Rizal at Quezon City has jurisdiction over Civil Case No. Q-26502.

The Dagupan Electric Corporation has its principal office in Quezon City where the business of the corporation is managed by the Board of Directors. Decisions of the said corporation are made in Quezon City. The employees of the Dagupan Electric Corporation in Dagupan City merely carry out the orders issued by the officials of said corporation in Quezon City. Hence the acts sought to be restrained are being committed in Quezon City.

The respondent judge did not commit a grave abuse of discretion in issuing the questioned order directing the Dagupan Electric Corporation to restore the connection of the electric power to the hotel Owned by Mc Adore Finance and Investment, Inc. The record shows that the respondent judge conducted hearings and gave the parties full opportunity to present their evidence before issuing the orders sought to be set aside. The questioned order dated December 19, 1978 which is self-explanatory reads:

"This case involves the disconnection of the electrical power of plaintiff's MC Adore International Palace Hotel in Dagupan by Defendant Dagupan Electric Corporation on November 27, 1978. Upon filing of the Complaint on December 6, 1978 and in view of the representation of plaintiff that it had commitments to foreign and local patrons, and that it is unable to operate the hotel, this Court issued mandatory injunction on December 6, 1978 and set the case for hearing on December 11, 1978 at 9:00 o'clock.

The mandatory injunction was not enforced as executive officials of Dagupan Electric Co. could not be located. At the hearing of December 11, 1978, in view of defendant's representation that plaintiff was in arrears in electric bills for almost half a million pesos, this Court suspended enforcement of the writ pending a full hearing. The hearing was reset for December 15, 1978 on which date the Court (received) the evidence and (heard the) arguments of the parties.

From the evidence and arguments adduced by parties, it is undisputed that the controversy between the parties arose from the act of defendant in changing the billing of plaintiff for June 1978 from P25,380.70 to P80,243.62. Dagupan sent the original bill for P25,380.70 on July 10, 1978; recalled the bill and changed the billing to P80,243.62, after Dagupan personnel found a reversal of the polarity of the wiring of MC Adore. The new billing was based on the average consumption of the hotel from July 12 to July 17, 1978.

It is not contested that the electric meter installed on the premises was intact and no tampering thereon was made. The unpaid bills as of November is only P138,000.00, and not half a million, as earlier manifested.

Dagupan's action in disconnecting electric service is apparently premised at its finding that the electric meter did not faithfully reflect the power consumption for June 1978; on the other hand, plaintiff suspects that adjustments were made by Dagupan which resulted in an increased consumption reading. It is the stance of plaintiff that its power consumption was reduced because of an energy conservation program; that the reading for the first month of operation was quite high because of the testing made on its central airconditioning system.

There is clearly a dispute as to the correct power consumption of plaintiff and it does not appear to be fair that defendant should by unilateral action terminate its services to plaintiff in the absence of any clear and definite finding that a reversal of the polarity of the hotel wirings had caused an abnormal drop in meter reading. Defendant appears to rely heavily on the report of Margarito Gatbonton, Utilities Regulation Engineer of the Board of Power, dated September 4, 1978. This report however has not yet been approved by the Board of Power.

It would also be prejudicial to the public interest that operation of plaintiff's hotel worth 75 million pesos, in which the Development Bank of the Philippines has an exposure of almost 57 million (75%) should be paralyzed because of this dispute.

On the question of jurisdiction, both parties are residents of Quezon City, as they have their principal offices in Quezon City. The disconnection order was initiated and had its life and source in Quezon City. The mandatory injunction is addressed to the corporation in Quezon City. The Dagupan plant acts only upon order of its

officers in Quezon City.

The cases cited by defendant are in apposite. In *Tan* (64 SCRA 364) the injunctive order was addressed to officials with official residence outside the territorial jurisdiction of the Court of First Instance of Pampanga. Moreover, in the cases where the Supreme Court ruled that the district court has improperly issued the writ (*Palanan*, 22 SCRA 1186; *Ruiz*, 38 SCRA 559, *Cudiamat*, 22 SCRA 695, and *Tan*, 64 SCRA 364) no private right of ownership was involved. Rather they involved licenses or privileges granted by government agencies with offices located beyond the district court's territorial jurisdiction. Where private rights are involved, the Supreme Court had upheld the issuance of the writ. In *Gonzales vs. Secretary of Public Works and Communications*, (18 SCRA 297) the injunction against the Secretary of Public Works who had his office in Manila, issued by the Court of First Instance of Davao, was upheld. This involved the demolition of a dam in Davao.

Here we have a case of the interference of plaintiff's property rights, with situs in Quezon City by a corporation also with situs in Quezon City. The exercise of will by defendant had its origin in Quezon City.

This Court can grant relief when that exercise of will causes irreparable prejudice as in the instant case.

The Court therefore finds the Motion for Reconsideration to be without merit and denies the same.

The writ of mandatory injunction issued by this Court on December 6, 1978 is reinstated and its immediate enforcement is ordered.

The plaintiff is however ordered to deposit with the Court the sum of P100,000.00 representing more or less one-half of the unpaid billings as of November 1978, and thereafter to deposit monthly beginning January 1979 P35,000.00 for delivery to defendant. It is likewise ordered to post additional bond of P150,000.00. Compliance by plaintiff must be made not later than Friday, December 22, 1978.

Let copies of this Order be served upon the parties and their respective counsel by the Sheriffs of Quezon City and Dagupan City.

SO ORDERED."[12]

It is clear from the foregoing order that the respondent judge did not act capriciously or whimsically in ordering the Dagupan Electric Corporation to restore the connection of the electric power to the hotel in Dagupan City of the Mc Adore Finance and Investment, Inc..

The various incidents regarding the correctness of the monthly bills presented by the Dagupan Electric Corporation to the Mc Adore Finance and Investment, Inc. can be better heard and resolved by the respondent judge. Meanwhile, it appearing that a tested meter has been installed on June 2, 1979 by the Board of Power and Waterworks in the premises of the hotel, the Mc Adore Finance and Investment, Inc. is directed anew to pay the monthly bills presented by the Dagupan Electric Corporation beginning June 1979. If the Mc Adore Finance and Investment, Inc. fails to do so within ten (10) days from notice of this decision, the Dagupan Electric Corporation is authorized to disconnect the electric power from the hotel.

The correct amounts due prior to June 1979 shall be resolved by the respondent judge after hearing the parties.

The motion for contempt against Modesta Sabeniano and the motion for contempt against Jose T. Apigo are both denied for lack of merit.

WHEREFORE, the petition for certiorari and prohibition is hereby dismissed but the Mc Adore Finance and Investment, Inc. is directed to pay the monthly bills as presented by the Dagupan Electric Corporation from June 1979. If the said Mc Adore Finance and Investment, Inc. fails to do so within ten (10) days from notice hereof, the Dagupan Electric Corporation may disconnect the electric power from the Mc Adore International Palace Hotel at

Dagupan City. No pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.

[1] Petition, Rollo, pp. 3-7.

[2] Rollo, p. 123.

[3] Rollo, pp. 142-147.

[4] Rollo, p. 157.

[5] Rollo, pp. 158-172.

[6] Rollo, pp. 191-193.

[7] Rollo, pp. 201-212.

[8] Rollo, pp. 267-269.

[9] Rollo, p. 271.

[10] Rollo, pp. 289-293.

[11] Rollo, p. 302.

[12] Annex "G", Petition, Rollo, pp. 106-110.

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