

MANILA ELECTRIC COMPANY, PETITIONER, VS. SOTERO REBIOQUILLO, IN HIS OWN BEHALF AND AS GUARDIAN OF THE MINORS MANUEL, BENJAMIN, NESTOR, MLLAGROS, CORAZON, CLEMENTE AND AURORA, AL...*G.R. No. L-8328. May 18, 1956*

Ponente: MONTEMAYOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f12654b092a2/>**MONTEMAYOR, J.:**

On August 22, 1950, Efren Magno went to the 3-story house of Antonio Penaloza, his stepbrother, located on Rodriguez Lanuza street, Manila, to repair a "media agua" said to be in a leaking condition. The "media agua" was just below the window of the third story. Standing on said "media agua", Magno received from his son thru that window a 3' X 6' galvanized iron sheet to cover the leaking portion, turned around and in doing so the lower end of the iron sheet came into contact with the electric wire of the Manila Electric Company (later referred to as the Company) strung parallel to the edge of the "media agua" and 21/2 feet from it, causing his death by electrocution. His widow and children filed suit to recover damages from the company. After hearing, the trial court rendered judgment in their favor—P10,000 as compensatory damages; P784 as actual damages; P2,000 as moral and exemplary damages; and P3,000 as attorney's fees, with costs. On appeal to the Court of Appeals, the latter affirmed the judgment with slight modification by reducing the attorney's fees from P3,000 to P1,000 with costs. The electric company has appealed said decision to us.

The findings of fact made by the Court of Appeals which are conclusive are stated in the following portions of its decision which we reproduce below:

"The electric wire in question was an exposed, uninsulated primary wire stretched between poles on the street and carrying a charge of 3,600 volts. It was installed there some two years before Penaloza's house was constructed. The record shows that during the construction of said house a similar incident took place, although fortunately with much less tragic consequences. A piece of wood which a carpenter was holding happened to come in contact with the same wire, producing some sparks. The owner of the house forthwith complained to defendant about the danger which the wire presented, and as a result defendant moved one end of the wire farther from the house by means of a brace, but left the other end where it was. '

"At any rate, as revealed by the ocular inspection of the premises ordered by the trial court, the distance from the electric wire to the edge of the 'media agua' on which the deceased was making repairs was only 30 inches or 2½ feet. Regulations of the City of Manila required that 'all wires be kept three feet from the building.' Appellant contends that in applying said regulations to the case at bar the reckoning should not be from the edge of the 'media agua' but from the side of the house and that, thus measured, the distance was almost 7 feet, or more than the minimum prescribed. This contention is manifestly groundless, for not only is a 'media agua' an integral part of the building to which it is attached but to exclude it in measuring the distance would defeat the purpose of the regulation. Appellant points out, nevertheless, that even assuming that the distance, within the meaning of the city regulations, should be measured from the edge of the 'media agua', the fact that in the case of the house involved herein such distance was actually less than 3 feet was due to the fault of the owner

of said house, because the city authorities gave him a permit to construct a 'media agua' only one meter or 39% inches wide, but instead he built one having a width of 65% inches, 17% inches more than the width permitted by the authorities, thereby reducing the distance to the electric wire to less than the prescribed minimum of 3 feet.

"It is a fact that the owner of the house exceeded the limit fixed in the permit given to him by the city authorities for the construction of the 'media agua', and that if he had not done so appellants wire would have been 11% (inches) more than the required distance of three feet from the edge of the 'media agua'. It is also a fact, however, that after the 'media agua' was constructed the owner was given a final permit of occupancy of the house. * * *

"* * * The wire was an exposed, high tension wire carrying a load of 3,600 volts. There was, according to appellant, no insulation that could have rendered it safe, first, because there is no insulation material in commercial use for such kind of wire; and secondly, because the only insulation material that may be effective is still in the experimental stage of development and, anyway, its costs would be prohibitive. * * *."

The theory followed by the appellate court in finding for the plaintiff is that although the owner of the house in constructing the "media agua" in question exceeded the limits fixed in the permit, still, after making that "media agua", its construction though illegal, was finally approved because he was given a final permit to occupy the house; that it was the company that was at fault and was guilty of negligence because although the electric wire in question had been installed long before the construction of the house and in accordance with the ordinance fixing a minimum of 3 feet, mere compliance with the regulations does not satisfy the requirement of due diligence nor avoid the need for adopting such other precautionary measures as may be warranted; that negligence cannot be determined by a simple matter of inches; that all that the city did was to prescribe certain minimum conditions and that just because the ordinance required that primary electric wires should be not less than 3 feet from any house, the obligation of due diligence is not fulfilled by placing such wires at a distance of 3 feet and one inch, regardless of other factors. The appellate court, however, refrained from stating or suggesting what other precautionary measures could and should have been adopted.

After a careful study and discussion of the case and the circumstances surrounding the same, we are inclined to agree to the contention of petitioner Company that the death of Magno was primarily caused by his own negligence and in some measure by the too close proximity of the "media agua" or rather its edge to the electric wire of the company by reason of the violation of the original permit given by the city and the subsequent approval of said illegal construction of the "media agua". We fail to see how the Company could be held guilty of negligence or as lacking in due diligence. Although the city ordinance called for a distance of 3 feet of its wires from any building, there was actually a distance of 7 feet and 2% inches of the wires from the side of the house of Penaloza. Even considering said regulation distance of 3 feet as referring not to the side of a building, but to any projecting part thereof, such as a "media agua" had the house owner followed the terms of the permit given him by the city for the construction of his "media agua", namely, one meter or 39 3/8 inches wide, the distance from the wires to the edge of said "media agua" would have been 3 feet and 11 3/8 inches. In fixing said one meter width for the "media agua" the city authorities must have wanted to preserve the distance of at least 3 feet between the wires and any portion of a building. Unfortunately, however, the house owner disregarding the permit, exceeded the one meter fixed by the same by 17% inches and leaving only a distance of 24 feet between the "Media agua" as illegally constructed and the electric wires. And added to this violation of the permit by the house owner, was its approval by the city through its agent, possibly an inspector. Surely we cannot lay these serious violations of a city ordinance and permit at the door of the Company, guiltless of breach of any ordinance or regulation. The Company cannot be expected to be always on the lookout for any illegal construction which reduces the distance between its wires and said construction, and after finding that said distance of 3 feet had been

reduced, to change the stringing or installation of its wires so as to preserve said distance. It would be much easier for the City, or rather it is its duty, to be ever on the alert and to see to it that its ordinances are strictly followed by house owners and to condemn or disapprove all illegal constructions. Of course, in the present case, the violation of the permit for the construction of the "media agua" was not the direct cause of the accident. It merely contributed to it. Had said "media agua" been only one meter wide as allowed by the permit, Magno standing on it, would instinctively have stayed closer to or hugged the side of the house in order to keep a safe margin between the edge of the "media agua" and the yawning, 2-story distance or height from the ground, and possibly if not probably avoided the fatal contact between the lower end of the iron sheet and the wires.

We realize that the presence of the wires in question quite close to the house or its "media agua" was always a source of danger considering their high voltage and uninsulated as they were, but the claim of the company and the reasons given by it for not insulating said wires were unrefuted as we gather from the findings of the Court of Appeals, and so we have to accept them as satisfactory. Consequently, we may not hold said company as guilty of negligence or wanting in due diligence in failing to insulate said wires. As to their proximity to the house it is to be supposed that that distance of 3 feet was considered sufficiently safe by the technical men of the city such as its electrician or engineer. Of course, a greater distance of say 6 feet or 12 feet would have increased the margin of safety but other factors had to be considered such as that the wires could not be strung or the posts supporting them could not be located too far toward the middle of the street. Thus, the real cause of the accident or death was the reckless or negligent act of Magno himself. When he was called by his stepbrother to repair the "media agua" just below the third story window, it is to be presumed that due to his age and experience he was qualified to do so. Perhaps he was a tinsmith or carpenter and had had training and experience for the job. So, he could not have been entirely a stranger to electric wires and the danger lurking in them. But unfortunately, in the instant case, his training and experience failed him, and forgetting where he was standing, holding the 6-foot iron sheet with both hands and at arms length, evidently without looking, and throwing all prudence and discretion to the winds, he turned around swinging his arms with the motion of his body, thereby causing his own electrocution.

In support of its theory and holding that defendant-appellant was liable for damages the Court of Appeals cites the case of *Astudillo vs. Manila Electric Co.*, 55 Phil., 427. We do not think the case is exactly applicable. There, the premises involved was that elevated portion or top of the walls of Intramuros, Manila, just above the Sta. Lucia Gate. In the words of the Court, it was "a public place where persons come to stroll, to rest and to enjoy themselves". The electric company was clearly negligent in placing its wires so near the place that without much difficulty or exertion, a person by stretching his hand out could touch them. A boy named Astudillo, placing one foot on a projection, reached out and actually grasped the electric wire and was electrocuted. The person electrocuted in said case was a boy who was in no position to realize the danger. In the present case, however, the wires were well high over the street where there was no possible danger to pedestrians. The only possible danger was to persons standing on the "media agua", but a "media agua" can hardly be considered a public place where persons usually gather. Moreover, a person standing on the "media agua" could not have reached the wires with his hands alone. It was necessary, as was done by Magno to hold something long enough to reach the wire. Furthermore, Magno was not a boy or a person immature but the father of a family, supposedly a tinsmith trained and experienced in the repair of galvanized iron roofs and "media agua". Moreover, in that very case of *Astudillo vs. Manila Electric Co.*, supra, the court said that although it is a well-established rule that the liability of electric companies for damages or personal injuries is governed by the rules of negligence, nevertheless such companies are not insurers of the safety of the public.

But even assuming for a moment that under the facts of the present case the defendant electric company could be considered negligent in installing its electric wires so close to the house and "media agua" in question, and in failing to properly insulate those wires (although according to the unrefuted claim of said company it was

impossible to make the insulation of that kind of wire), nevertheless to hold the defendant liable in damages for the death of Magno, such Supposed negligence of the company must have been the proximate and principal cause of the1 accident, because if the act of Magno in turning around and swinging the galvanized iron sheet with his hands was the proximate and principal cause of the electrocution, then his heirs may not recover. Such was the holding of this Court in the case of Taylor vs. Manila Electric Railroad and Light Company, 16 Phil., 8. In that case the electric company was found negligent in leaving scattered on its premises fulminating caps which Taylor, a 15-year old boy found and carried home. In the course of experimenting with said fulminating caps, he opened one of them, held it out with his hands while another boy applied a lighted match to it, causing it to explode and injure one of his eyes eventually causing blindness in said eye. Said this 'tribunal in denying recovery for the injury:

"* * *, so that while it may be true that these injuries would not have been incurred but for the negligent act of the defendant in leaving the caps exposed on its premises, nevertheless plaintiff's own act was the proximate and principal cause of the accident which inflicted the injury."

To us it is clear that the principal and proximate cause of the electrocution was not the electric wire, evidently a remote cause, but rather the reckless and negligent act of Magno in turning around and swinging the galvanized iron sheet without taking any precaution, such as looking back toward the street and at the wire to avoid its contacting said iron sheet, considering the latterly length of 6 feet. For a better understanding of the rule on remote and proximate cause with respect to injuries, we find the following citation helpful:

"A prior and remote' cause cannot be made the basis of an action if such remote cause did nothing more than furnish the condition or give rise to the occasion by which the injury was made possible, if there intervened between such prior or remote cause and the injury a distinct, successive, unrelated, and efficient cause of the injury, even though such injury would not have happened but for such condition or occasion. If no danger existed in the condition except because' of the independent cause, such condition was not the proximate cause. And if an independent negligent act or defective condition sets into operation the circumstances which result in injury because of the prior defective condition, such subsequent act or condition is the proximate cause." (45 C. J. pp. 931-932.)

We realize that the stringing of wires of such high voltage (3,600 volts), uninsulated and so close to houses is a constant source of danger, even death, especially to persons who having occasion to be near said wires, do not adopt the necessary precautions. But may be, the City of Manila authorities and the ;electric company could get together and devise means of minimizing this danger to the public. Just as the establishment of pedestrian lanes in city thoroughfares may greatly minimize danger to pedestrians because drivers of motor vehicles may expect danger and slow down or even stop and take other necessary precaution upon approaching said lanes, so, a similar way may possibly be found. Since these high voltage wires cannot be properly insulated and at reasonable cost, they might perhaps be strung only up to the outskirts of the city where there are few houses and few pedestrians and there step down to a voltage where the wires carrying the same to the city could be properly insulated for the better protection of the public

In view, of all the foregoing, the appealed decision of the Court of Appeals is hereby reversed and the complaint filed against the Company is hereby dismissed. No costs.

Paras, C. J., Bengzon, Padilla, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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