

RICARDO ENCARNACION, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND PILIPINO TELEPHONE CORPORATION, RESPONDENTS.

G.R. No. 101292. June 08, 1993

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-101292/>

PADILLA, J.:

This petition seeks to review and set aside the decision* of the Court of Appeals promulgated on 28 January 1991 in C.A. G.R. No. 17012 and its resolution denying the motion for reconsideration dated 5 August 1991, both reversing the decision** of the Regional Trial Court of Baguio City, Br. VI, dated 15 January 1988.

Petitioner Ricardo Encarnacion became a telephone service subscriber of private respondent Pilipino Telephone Corporation (PILTEL for short) after payment of the required fees. His telephone was installed on 3 June 1982. Under the terms and conditions governing the account, petitioner was to pay monthly rentals (local service charges) and other bills for long distance calls that may be made by him or by others thru his phone (toll charges).

At midnight of 10 July 1982, petitioner's phone service was disconnected by PILTEL in order to switch operations to the digital electronic system. Instead, however, of a temporary disconnection, petitioner claims his telephone went out of order and was not operational from 10 July to 30 September 1982. Despite his numerous complaints, the telephone service was not restored, PILTEL however billed petitioner for July, August and September 1982. He refused to pay the local service charges for said months but admits paying toll charges (long distance calls) during the same period. The telephone service was restored on 1 October 1982. From 1 October 1982 up to May 1983, petitioner paid all service charges; however, PILTEL carried over to his monthly bills (after the alleged restoration of service) the unpaid local service charges for the months of July, August and September 1982 amounting to P164.43. Petitioner refused to pay the carried over amount, insisting that it is unjust to pay when no service was rendered for said period.

Due to non-payment of the carried over amount, respondent temporarily disconnected petitioner's telephone on 19 May 1983. On 14 July 1983, the disconnection was made permanent.

Claiming unjustified disconnection, and in order to compel restoration of telephone service, petitioner filed a complaint for Specific Performance and Damages with Prayer for Issuance of a Writ of Preliminary Injunction against PILTEL (docketed as Civil Case No. 140-R, RTC, Br. VI, Baguio City). Respondent's answer in the RTC averred that the telephone service was operational during the months of July, August and September 1982 except from July 19 to 22, September 22 to October 2 and October 29 to November 4, 1982, as shown by the trouble card of Tel. No. 442-4822 but for which interruptions in service, periodic rebates were granted. Petitioner's refusal to pay despite due notices and given grace periods led to the permanent disconnection, according to private respondent PILTEL.

Upholding petitioner's contention, the RTC held:

"WHEREFORE, in view of all the foregoing, the Court finds that the preponderance of evidence is in favor of the plaintiff and against the defendant and accordingly judgment is hereby rendered in favor of the plaintiff and against the defendant, as follows:

1. Ordering the defendant to restore the telephone service of the plaintiff under its contract and to maintain the same in adequate and good service for as long as plaintiff pays promptly his bills for the same;
2. Ordering the defendant to pay the plaintiff the amount of P50,000.00 as moral damages;
3. Ordering the defendant to pay the amount of P10,000.00 as exemplary damages;
4. Ordering the defendant to pay attorney's fees in the amount of P5,000.00; and the costs of this suit.

SO ORDERED."[1]

PILTEL appealed to the Court of Appeals which reversed the RTC and held:

"Of crucial significance are the notices (Exhs. BB-CC, pp. 148-150) of disconnection sent by appellant and received by appellee before his telephone was finally disconnected by the former reminding him of his unpaid bills for the months of July to September 1982 and giving him a grace period to settle his account. Thus, negating gross negligence and bad faith on the part of appellant in disconnecting his telephone service in view of his adamant refusal to pay his overdue bills.

x x x

It is worth noting that during the hearing of the preliminary injunction appellant had already restored appellee's telephone service and in fact condoned the balance of his telephone account thus rendering moot and academic the action for specific performance.

Anent the award of moral and exemplary damages, We find the same devoid of legal justification in view of the foregoing disquisition."[2]

Petitioner is now before us claiming that the Court of Appeals' decision suffers from the following flaws:

"I. Respondent Court of Appeals committed a serious misapprehension of fact when it considered the trouble record (the very piece of evidence on which respondent court anchored its decision) as having been prepared and presented by petitioner-appellee which, if properly evaluated, would justify a different conclusion."

"II. Respondent Court of Appeals gravely abused its discretion in reversing the trial court and rendering a decision not borne out by the record and not based on substantial evidence."

"III. Respondent Court of Appeals erred in deciding a question of substance in a way not in accord with law or with applicable decisions of the Supreme Court."[3]

Petitioner asserts that there is a question of law involved in this appeal. We do not think so. The appeal involves an appreciation of facts, i.e., whether the questioned decision is supported by the evidence and the records of the case. In other words, did the Court of Appeals commit a reversible error in considering the trouble record of the subject telephone? Or is this within the province of the appellate court to consider? Absent grave abuse of discretion, this Court will not reverse the appellate court's findings of fact.

In a petition for review under Rule 45, Rules of Court, invoking the usual reason, i.e., that the Court of Appeals has decided a question of substance not in accord with law or with applicable decisions of the Supreme Court, a mere statement of the ceremonial phrase is not sufficient to confer merit on the petition. The petition must specify the law or prevailing jurisprudence on the matter and the particular ruling of the appellate court violative of such law or previous doctrine laid down by the Supreme Court. In the case at bar, petitioner quoted the applicable law

on admissibility of business entries.[4] A thorough reading of the law and the Court of Appeals ruling vis a vis the questioned trouble record fails to reveal the appellate court decision's departure from law or settled doctrine of the Supreme Court. Sec. 37, Rule 130 of the Rules of Court states:

"Entries in the course of business. - Entries made at, or near the time of the transaction to which they refer, by a person deceased, outside of the Philippines or unable to testify, who was in a position to know the facts therein stated, may be received as prima facie evidence, if such person made the entries in his professional capacity or in the performance of duty and in the ordinary or regular course of business or duty."

The entry "may be received as prima facie evidence" – if the person who made the entry cannot testify. The rule establishes a disputable presumption regarding admissibility of a document.

"While technically, evidence not submitted before the lower Court may not be considered by the appellate court on appeal, the rule admits of exceptions where as in this case the testimonies have been duly transcribed in regular proceedings which have not been impugned by the parties who themselves were also the protagonist therein. In such cases, what matters is the prevention of needless delays and the orderly and expeditious dispatch of judicial business."[5]

Discrediting or giving credence to a piece of evidence pertains to its materiality or relevance (the tendency in reason to establish the probability or improbability of a fact in issue). The trouble record in question formed part of the records. The RTC decision[6] evaluated its materiality and did not give it credence. The Court of Appeals believed otherwise. Outside the circumstances of this case, i.e. if it were found that there is no other evidence to support its decision, the Court of Appeals' reliance on the trouble record would be questionable. However, unless there is a clearly grave or whimsical abuse on its part, findings of fact of the appellate court will not be disturbed.[7] The Supreme Court will only exercise its power of review in known exceptions such as gross misappreciation of evidence or a total void of evidence.

In the case at bar, we find no reversible error in the Court of Appeals' decision after considering certain statements of the trial court itself which, ironically, ruled in favor of petitioner. Assuming *arguendo* that the trouble record is incompetent evidence, petitioner's arguments on the total absence of phone service for July, August, and September 1982 is belied by the RTC's recitation of facts, thus: "The plaintiff, however, paid 'the toll charges' covering long distance calls during said period of July 1982, August 1982 and September 1982 (Exhibit G)."[8]

Why, it may be asked, was petitioner able to use his telephone for long distance calls but not for local calls for the same given period? He does not explain. It appears correct to say that the telephone line was not really dead for the whole three (3) months of July, August and September 1982, but only for intermittent periods. We do not condone the constant disruption of private respondent's telephone service, but petitioner must be accurate in his claim if he expects to be awarded damages.

We find no reason for the award of moral and exemplary damages as the disconnection was done after due notices to petitioner. Petitioner was further given a rebate for the period of interrupted service. His account balance was condoned by means of a credit memo and the telephone line was restored on 14 December 1983. These are no badges of wanton, reckless, oppressive or malevolent actuation on the part of private respondent.

WHEREFORE, premises considered, the petition for review is DENIED; the questioned Court of Appeals' decision is AFFIRMED.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, and Nocon, JJ., concur.

* Justice Manuel C. Herrera, writing for the Court, Justices Alfredo L. Benipayo and Fortunato A. Vailoces concurring.

** Judge Ruben C. Ayson, presiding

[1] Rollo at pp. 44 to 53

[2] Ibid, pp. 38-43

[3] Ibid, pp. 22, 26 and 29

[4] Revised Rules of Court - Rule 130, Section 37

[5] Regalario vs. Northwest Finance Corporation No. L-26243, 30 September 1982, 117 SCRA 45. See also Beo vs. Court of Appeals - G.R. No. 95709, 200 SCRA 575, 13 August 1991

[6] Rollo, p. 50

[7] Gimeno vs. Court of Appeals, No. L-22747, 29 December 1977, 80 SCRA 623

[8] RTC decision, p. 2, par. 2, lines 21-23, Rollo at p. 45

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.