MANILA ELECTRIC COMPANY, PETITIONER, VS. SPOUSES HUA KIM PENG AND ANGELITA RAMORAN, RESPONDENTS.

G.R. NO. 109389. June 26, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant petition for review on certiorari assailing the Decision[1] dated March 19, 1993 of the Court of Appeals in CA-G.R. CV No. 32460.

The facts, as narrated by the trial court and adopted by the Court of Appeals, are:

On December 7, 1988, spouses Hua Kim Peng and Angelita Ramoran, respondents, filed with the Regional Trial Court (RTC), Branch 81, Quezon City a Complaint[2] for Injunction with Damages against the Manila Electric Company (MERALCO),[3] petitioner, docketed as Civil Case No. Q-88-1323. The complaint alleges inter alia that respondents are the owners of two small factories manufacturing plastic and three residential units where their family and in-laws live, located at 153 West Riverside, Quezon City. Petitioner supplies electricity to the said factories and residential units under the following accounts:

a) Account No. 05284-3885-18 (commercial)

b) Account No. 05284-3875-10 (commercial)

c) Account No. 05284-3877-18 (residential)

d) Account No. 05284-3876-19 (residential)

e) Account No. 05284-3880-21 (residential)

all of which have five (5) separate metering devices to record the power consumption. Originally, these metering devices were installed by petitioner's crew on the concrete wall inside respondents' compound. Later, the same crew transferred the metering devices to the outside wall, leaving inside one idle meter base.

Respondents have been religiously paying their monthly electric bills. On September 24, 1988, while respondents were not yet home, petitioner's inspection team arrived at their compound. They climbed the wall through a ladder. Once inside the compound, they removed the idle meter base. Then they presented to Leticia Zamora, respondent Angelita Ramoran's cousin, pink papers stating that jumpers were connected to respondents' electric service, preventing the meter from registering the actual electrical consumption.[4]

On September 28, 1988, respondents' lawyer sent petitioner a registered letter[5] stating that the jumpers allegedly found by its inspection team on the idle meter base "is a fabrication"; and that to determine the truth, petitioner should send another inspection team.

Petitioner ignored the request of respondents' lawyer. Instead, after a month, petitioner sent respondents five letters all marked "CONFIDENTIAL," demanding payment of P1,811,933.08, within 10 days from notice, for

electrical consumption not registered in the five metering devices because of the jumpers connected to their electric service. When respondents refused to pay, petitioner threatened to disconnect their electrical service. Thus, respondents prayed that a writ of injunction be issued and that petitioner be ordered to pay moral and exemplary damages and litigation expenses.

In its Answer with Compulsory Counterclaim and Opposition to the Application for Injunction,[6] petitioner specifically denied the material allegations of the complaint, maintaining that its crew found permanent jumpers connected to respondents' electric service. The crew took pictures of the jumpers and corrected the defects in the metering installation. Their findings were confirmed by an actual laboratory test. Because of the illegal jumpers, petitioner suffered losses in terms of "used but unregistered electricity" in the amount of P1,811,933.08. Due to respondents' failure to pay the said amount despite demand, petitioner has the right, under its charter and service contracts, to discontinue supplying electricity to respondents. Petitioner thus prayed that the complaint be dismissed and that respondents be ordered to pay the amount demanded plus damages.

On December 7, 1988, the RTC issued a temporary restraining order and, eventually, a writ of preliminary injunction enjoining petitioner from disconnecting respondents' electric services.[7]

After trial, or on April 8, 1991, the RTC rendered its Decision[8] in favor of petitioner, thus:

> WHEREFORE, judgment is hereby rendered:
>
> - Dismissing plaintiffs' complaint;
>
> - Ordering plaintiffs, under defendant's counterclaim, to pay defendant the amount of P1,811,933.08, with interest at the legal rate until fully paid, and to pay the costs of the suit.
>
> SO ORDERED.

On appeal by respondents, the Court of Appeals, in its Decision[9] dated March 19, 1993, reversed the RTC judgment, thus:

> WHEREFORE, in view of the foregoing, the decision appealed from is hereby REVERSED and SET ASIDE and a new one rendered:
>
> (1) Permanently enjoining MERALCO from cutting the electrical connection of plaintiffs-appellants on the grounds which caused the filing of the complaint for injunction in the instant case;
>
> (2) Ordering MERALCO to pay the plaintiffs-appellants the amount of P50,000.00 as moral damages and P50,000.00 as exemplary damages;
>
> (3) Ordering MERALCO to pay the plaintiffs-appellants the amount of P50,000.00 as attorney's fees and to pay the costs of the suit; and
>
> (4) Dismissing all other claims and/or counterclaims for not being well-founded and for lack of merit.
>
> SO ORDERED.

The Court of Appeals held that there is serious misapprehension offacts in the Decision appealed from, thus:

> First, an assiduous examination of the pictures submitted by the defendant reveals that, contrary to its claim

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that jumpers were used by the plaintiffs, the pictures prove otherwise. From the pictures marked as Exhs. 1 to 7, inclusive, the main service line from the MERALCO enters a conduit near the top, but outside the wall, of the plaintiffs' compound, and goes downward to such height as to make it more convenient for the MERALCO employee to read the meter for purposes of determining the consumption of the plaintiffs. In order for the consumer to be guilty of using a jumper, he must tap from the area between the entrance wire coming from the main line of MERALCO, up to the meter, because if he taps from the line which has already passed the meter, he cannot be guilty of using a jumper, because in the latter case, the electrical current that he will consume will be recorded in the meter.

In the instant case, MERALCO does not claim that the meters were tampered, but, on the contrary, that they were properly functioning. The pictures, especially Exhs. 2 and 3, show that the big wires which are the entrance wires from the main line of MERALCO have not been tapped. What defendant's service inspector is holding and pointing at in the pictures as alleged wire jumpers, are the smaller wires which are tapping electricity from the wires coming from inside the conduit. It should be noted, that putting the entrance wire from the MERALCO main line as it reaches the wall and down to the meter, and from the meter up to a safe place, inside conduits for safety purposes, is a standard procedure, if not a requirement. It is from said wire coming from inside the conduit and which has already passed the meter that a consumer taps for the electrical consumption. This is precisely what was done by plaintiffs, as clearly shown in Exh. 3 but which defendantï¿½s service inspector maliciously points as a jumper, and the same is also true as regards the other pictures marked as Exhs. 2, 4, 5, 6 and 7.

Second, it is hard to believe that plaintiffs-appellants would install jumpers, at a place indicated by the MERALCO inspector and allegedly shown in the pictures (Exhs. 1-1 to 7, inclusive), particularly considering that the wires indicated as jumpers, are outside the compound of the plaintiffs and so obvious to any passerby, especially to any employee of the MERALCO who would be reading the meter consumption every month. All that the MERALCO inspector would have to do upon reading the meter is to look up and see the alleged jumpers. Otherwise stated, if plaintiffs-appellants would use jumpers, they would install it in such a way that it cannot easily be detected, and not as obvious as the wiring shown in the pictures. Since the alleged illegal tappings are so obvious to the naked eye, especially to any employee of the MERALCO who would read the meter consumption every month and which they have been doing for years, they would naturally report the same immediately to the MERALCO office, if the same really existed, and yet, they never complained or reported any alleged illegal wire tapping until the incident in question. Thus, the claims of the witnesses of MERALCO of alleged electrical wire tapping are illogical, maliciously fabricated and in bad faith.

Third, in fact, the customer account information submitted by MERALCO belies its claim that a jumper was used by plaintiffs-appellants. If it were true, as claimed by MERALCO, that plaintiffs-appellants used illegal jumpers, then clearly, the electric consumption after the alleged jumpers were removed and the line corrected during the inspection of September 24, 1988, should be much higher than before said inspection and correction date. However, a reading of the 15-month bill history of plaintiffs-appellants shows that the electrical consumption is practically the same before and after September 24, 1988, and in most cases, even lower after September 24, 1988 than previous thereto. x x x.

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Furthermore, the MERALCO differential billing lacks rational basis, since variation in consumption could mean many things. Breakdowns of machinery or lesser use of electricity due to lesser production necessarily will result in lesser current consumption. MERALCO's system of determining the average consumption to determine the actual current used, can be made applicable in cases where the meters did not function properly in certain months, in which case, since none is recorded during said months, then the average consumption during previous and subsequent months can be used to determine how much would have been consumed during the months when the meter did not function, which is not the circumstance existing in the instant case.

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Hence, this petition for review on certiorari.

Petitioner contends that the Court of Appeals erred: (1) in finding that respondents did not install jumpers; and (2) in ruling that its "differential bills" on the "used but unregistered electricity," in the total amount of P1,811,933.08, lack rational basis.

Respondents, in their Comment, countered that the factual findings of the Court of Appeals in its assailed Decision are supported by the evidence on record. They thus prayed that the instant petition be dismissed.

The petition must fail.

The elementary rule in this jurisdiction is that in petitions for review on certiorari as a mode of appeal, such as the one at bar, only questions of law may be raised[10] as this Court is not a trier of facts.[11] For a question to be one of law, it must not involve a reevaluation of the probative value of the evidence presented by the parties.[12] The findings of fact of the Court of Appeals are ordinarily not subject to review by this Court as they are deemed conclusive.[13] The exceptions are when it can be shown that: (1) the conclusion reached by the Court of Appeals is a finding grounded on speculations, surmises or conjectures, and is manifestly mistaken, absurd, and impossible; (2) there is grave abuse of discretion; (3) the judgment is based on misapprehension of facts; (4) the findings of fact of the trial court and the appellate court are conflicting; and (5) the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of the parties.[14]

Here, the Appellate Court's factual findings are in conflict with those of the trial court. Thus, a ere, the Appellate reexamination of the evidence submitted by the parties during the trial of this case is in order.

Verily, we find no valid reason to deviate from the findings of the Court of Appeals. Petitioner failed to prove that its crew found jumpers connected to respondents' electric service.

In the early case of US v. Genato,[15] a "jumper" is described as a contrivance "used for the purpose of deflecting the current, thus preventing its passage through the meter and its consequent measurement." It is clear that the primary purpose in installing a jumper is to prevent the electrical consumption of the customer from passing through and being recorded by the meter. As correctly stated by the Court of Appeals in its assailed Decision, in order for a jumper to work as intended, the person using it "must tap from the area between the entrance wire coming from the main line of MERALCO, up to the meter, because if he taps from the line which has already passed the meter, ... the electrical current that he will consume will be recorded in the meter."

In the instant case, it is not disputed that the five (5) electric meters installed by petitioner outside the wall of respondents' compound are functioning properly. Any jumper, therefore, must be installed outside the wall in order to deflect the electric current from passing through the meters. As stated by the Court of Appeals, petitioner's own photographic evidence reveals that the big wires are the "entrance wires from the main line of MERALCO," and these "have not been tapped."

Indeed, it is contrary to human experience that respondents would install illegal jumpers outside their wall, just above the electric meters where they would be visible to one and all. As the Court of Appeals pointed out, "all that the MERALCO inspector would have to do upon reading the meter is to look up and see the alleged jumpers." It is difficult to believe that respondents would have installed such a visible illegal contrivance. There is thus basis for the Court of Appeals' conclusion that the illegal jumpers are non-existent.

Equally unfounded is petitioner's "differential bills" in the total amount of P1,811,933.08 representing alleged "used but unregistered electricity" due to the jumpers. Petitioner's inspection team allegedly discovered the jumpers on September 24, 1988, but no evidence was adduced to prove the exact or approximate date when the

supposed jumpers were installed. Surprisingly, the differential bills cover four (4) years prior to September 1988 with respect to the four (4) accounts, thus:

> Acct. No. 05284-3876-19 – from October 10, 1984 to September 7, 1988 – at least 56,241 kilowatt-hours used but unregistered electricity – valued at P133,347.36;[16]
>
> Acct. No. 05284--3877-18 – from February 9, 1984 to September 7, 1988 – at least 19,519 kilowatt-hours used but unregistered electricity – valued at P45,155.80;[17]
>
> Acct. No. 05284-3885-18 – from April 10, 1984 to September 7, 1988 – at least 452,620 kilowatt-hours used but unregistered electricity – valued at P1,299,564.07;[18]
>
> Acct. No. 05284-3880-21 – from February 9, 1984 to September 7, 1988 – at least 123,613 kilowatt-hours used but unregistered electricity – valued at P306,240.62;[19]

and, two (2) years prior to September 1988 as regards to:

> Acct. No. 05284-3875-10 – from June 10, 1986 to September 7, 1988 – at 15,168 kilowatt-hours used but unregistered electricity – valued at P27,625.23;[20]

Significantly, no explanation was offered by any of petitioner's witnesses why the period when the alleged jumpers were in place was reckoned from 1984 to 1988 concerning the four accounts, and from 1986 to 1988 with respect to another account. Petitioner's differential bills, therefore, not only "lack rational basis," as found by the Court of Appeals, but are highly speculative and arbitrary.

It bears stressing that, as found by the Court of Appeals, after the alleged jumpers were removed by petitioner's crew on September 24, 1988, respondents' electrical consumption remained the same or even lower after that date.

In sum, we find no reversible error committed by the Court of Appeals in its assailed Decision. The established rule is that its factual findings, when supported by substantial evidence on record, as in this case, are final and conclusive.[21]

WHEREFORE, we DENY the instant petition and AFFIRM the Decision dated March 19, 1993 of the Court of Appeals in CA-G.R. CV No. 32460. Costs against the petitioner.

SO ORDERED.

Puno, (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

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[1] Penned by Justice Jorge S. Imperial (retired, now deceased) and concurred in by Justice Vicente V. Mendoza (who eventually became a member of this Court, now retired) and Justice Quirino D. Abad Santos, Jr. (retired), Rollo, pp. 44-58.

[2] Annex "B," Petition, id., pp. 59-81.

[3] A public utility corporation engaged in the business of supplying electrical energy to the general public.

[4] See petitioner's demand letters dated October 19, 29, 31, 1988 and November 5, 1988 sent to respondents, Rollo, pp. 66-70.

[5] Annexes "A," "A-1" (registry receipt), and "A-2" (registry return receipt) of the Complaint; Petition, id., p. 65.

[6] Annex "C," Petition, id., pp. 82-114.

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[7] Par. 36 of petitioner's answer, id., pp. 95-96.

[8] Id., pp. 132-139.

[9] Id., pp. 44-58.

[10] Mackay v. Angeles, G.R. No. 144230, September 30, 2003, 412 SCRA 369, 373, citing Reas v. Bonife, 190 SCRA 493 (1990).

[11] Phil. Lawin Bus Co. v. Court of Appeals, G.R. No. 130972, January 23, 2002, 374 SCRA 332, 337, citing Trade Unions of the Philippines v. Laguesma, 236 SCRA 584 (1994).

[12] Custodio v. Corrado, G.R. No. 146082, July 30, 2004, 435 SCRA 500.

[13] Id.; Jumalon v. Court of Appeals, G.R. No. 127767, January 30, 2002, 375 SCRA 175, 179, citing Atillo III v. Court of Appeals, 334 Phil. 546, 266 SCRA 596 (1997).

[14] Chan v. Maceda, Jr., G.R. No. 142591, April 30, 2003, 402 SCRA 352, 362, citing Fule v. Court of Appeals, 286 SCRA 698 (1998).

[15] No. 5197, February 10, 1910, 15 Phil. 170, 171-172; see also United States v. Carlos, No. 6295, September 1, 1911, 21 Phil. 553.

[16] Pars. 10-12, petitioner's Answer with Compulsory Counterclaim and Opposition to the Application for Injunction, Rollo, pp. 88-90.

[17] Pars. 14-16, id., pp. 89-90.

[18] Pars. 23-26, id., pp. 92-93.

[19] Pars. 28-30, id., pp. 93-94.

[20] Pars. 18-21, id., pp. 90-92.

[21] Savellano v. Northwest Airlines, G.R. No. 151783, July 8, 2003, 405 SCRA 416, citing Batingal v. Court of Appeals, 351 SCRA 60 (2001), Atillo III v. Court of Appeals, 266 SCRA 596 (1997); Lipat v. Pacific Banking Corporation, G.R. No. 142435, April 30, 2003, 402 SCRA 339, citing Milestone Realty and Co., Inc. and William L. Perez v. Court of Appeals, 381 SCRA 406 (2002).

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