THE MANILA ELECTRIC COMPANY, PETITIONER, VS. SOUTH PACIFIC PLASTIC MANUFACTURING CORPORATION, RESPONDENT.

G.R. NO. 144215. June 27, 2006

Ponente: CORONA, J.

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CORONA, J.:

Before us are two petitions for review[1] of the decision[2] dated July 28, 2000 of the Court of Appeals (CA) in CA-G.R. SP No. 41399, the dispositive portion of which read:

> THE FOREGOING CONSIDERED, the Amended Decision while AFFIRMED, is hereby MODIFIED, by also directing the [South Pacific Plastic Manufacturing Corporation] to pay the [Manila Electric Company] P100,000.00 exemplary damages and P25,000.00 attorney's fees.
>
> SO ORDERED.[3]

The Manila Electric Company (Meralco) is a corporation duly organized and existing under Philippine laws engaged in the distribution and sale of electric power. South Pacific Plastic Manufacturing Corporation (South Pacific) is a corporation duly organized and existing under Philippine laws engaged in the manufacture, sale and exportation of plastic products. Both assail the decision of the CA via separate petitions for review. The cases were consolidated by this Court in a resolution dated July 18, 2001.[4]

The facts, as summarized by the CA, are as follows:

> South Pacific and Manila Electric Company (Meralco) were parties to several Contracts of Services under four (4) Contract Account Numbers, namely, Account Numbers 9487-4712-12, 9487-4922-18, 9487-902216 and 9487-9212-16. Under these contracts, Meralco agreed to supply South Pacific with electric power at the latter's factory located at T. Santiago Street, Canumay, Valenzuela, Metro Manila.
>
> In consideration for Meralco's services, South Pacific agreed to pay the former its monthly billings as determined by the four (4) electric supply reading instruments to which the aforementioned account numbers have been assigned respectively. These electric meter instruments were installed by Meralco in South Pacific's premises.
>
> Under the contract of services, both parties agreed that:"6. The monthly bills for electric service rendered shall be paid by the CUSTOMER to collectors or at the COMPANY'S main or branch offices or at its authorized banks within ten (10) days from the date said bills are presented for payment and should the CUSTOMER fail to pay any of the bills under this agreement or any other agreements, whether prior or present, with the COMPANY when due or should the CUSTOMER fail to comply with any of the terms and conditions of this agreement or any other agreements the COMPANY shall have the right to discontinue the supply of electric energy at the expiration of five (5) days from and after delivery to the CUSTOMER of a written notice to this effect.
>
> xxx xxx xxx

CUSTOMER'S LIABILITY

> Customers will be held responsible for tampering, interfering with, or breaking of seals of meters or other equipment of the Company installed on the Customer's premises, and shall be held liable for the same according to law.

PAYMENTS:

> xxx In the event of the stoppage or the failure by any meter to register the full amount of energy consumed, the Customer shall be billed for such period on an estimated consumption based upon his use of energy in a similar period of like use.
>
> xxx xxx xxx

DISCONTINUANCE OF SERVICE

> The company reserves the right to discontinue service in case the Customer is in arrears in the payment of bills or for failure to pay the adjusted bills in those cases where the meter stopped or failed to register the correct amount of energy consumed, or for failure to comply with any of these terms and conditions, or in the case of or to prevent fraud upon the Company. Before disconnection is made in the case of or to prevent fraud, the Company may adjust the bill of said Customer accordingly and if the adjusted bill is not paid, the Company may disconnect the same. xxx"

For several years, Meralco continuously supplied South Pacific with electric power. The latter, in turn, regularly paid its bills for electric consumption as registered in the metering devices installed by Meralco.

In 1981, however, South Pacific began receiving notices from Meralco demanding payment for certain amounts representing electric power consumption allegedly not reflected on South Pacific's electric meters, and which was allegedly due to the defective electric meters installed in the latter's premises.

A routine inspection on the metering facilities at South Pacific's, and in the presence of the latter's representative officer on numerous occasions starting June 1981 until 198[4], however, revealed that the four (4) electric meters installed therein were defective and were allegedly found to be tampered. For some time, said meters had been allegedly reflecting unusually lower power consumption by South Pacific than it actually used, as a result of which, the latter had not been paying the corresponding amount for its actual electricity consumption, thus, causing Meralco to sustain undue losses.

Based on the results of, and findings at the inspection and the consequent laboratory tests, Meralco determined the number of kilowatt hours in unregistered electric energy actually used covering certain periods when South Pacific would have been liable to pay said unregistered electric consumption.

Subsequently, Meralco sent the corresponding demand letters to South Pacific for the payment of the adjusted bills totaling P1,572,346.85, covering the period from April 1981 to April 1984, under threat of disconnection.[5]

On August 15, 1984, Meralco sent South Pacific a letter demanding the payment of the sum of P1,338,727.77 under threat of termination of all service contracts and disconnection of all power supply to South Pacific's premises.[6] On August 23, 1984, South Pacific filed a petition for prohibition with the Regional Trial Court of Valenzuela, Metro Manila, Branch 171 docketed as Civil Case No. 2099-V-84. It alleged that irreparable damage to both its business and reputation, as well as immeasurable injury to its more than 1,500 employees, would result if Meralco was allowed to terminate its services and disconnect power supply to it.[7]

The trial court rendered a decision dated February 10, 1995 dismissing South Pacific's petition and awarding to

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Meralco the sum of P1,174,190.91 on its counterclaim, plus P25,000 as attorney's fees.[8]

South Pacific filed a motion for reconsideration while Meralco filed a motion for partial reconsideration (and to amend to conform to evidence). In an order dated January 31, 1996, the trial court denied both motions for reconsideration but granted the motion to amend of Meralco.[9]

Thus, in an amended decision dated February 8, 1996, the trial court reiterated its ruling dismissing South Pacific's petition but increasing the award on Meralco's counterclaims to P6,199,393.02.[10] Both parties appealed the amended decision.

On July 28, 2000, the CA rendered a decision not only affirming the amended decision but also awarding exemplary damages to Meralco in the amount of P100,000.

In this petition before us, South Pacific raises the following grounds in support of its petition:

> 4.1 THE FINDINGS OF THE HONORABLE COURT OF APPEALS ARE NOT SUPPORTED BY THE EVIDENCE ON RECORD.
>
> 4.2 MERALCO MISERABLY FAILED TO JUSTIFY ITS ADJUSTED BILLINGS AGAINST SOUTH PACIFIC.
>
> 4.3 THERE WAS NO LEGAL BASIS FOR THE AWARD OF EXEMPLARY DAMAGES.[11]

It prays that the CA's decision be reversed and set aside and that its petition for prohibition be granted.

Meralco, on the other hand, filed its petition on this sole ground:

> THE COURT OF APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S RULING THAT THERE WAS NO FACTUAL AND LEGAL BASIS TO HOLD SOUTH PACIFIC LIABLE FOR THE DIFFERENTIAL BILLINGS AMOUNTING TO P397,155.94 AS A RESULT OF THE TAMPERING DISCOVERED ON 17 JUNE 1981 (ACCOUNT NO. 9487-4712), 16 JANUARY 1982 (ACCOUNT NO. 9487-4922-18), 13 APRIL 1981 (ACCOUNT NO. 9487-9012 [OLD]), 21 NOVEMBER 1983 (ACCOUNT NO. 9487-9022-16 [NEW]) AND 13 APRIL 1981 (ACCOUNT NO. 9487-[9212-16]).[12]

It prays that South Pacific be also held liable for the amount of P397,155.94, with interest thereon at the legal rate commencing from the date of demand on August 15, 1984 until the amount is fully paid.[13]

It is obvious that both parties want this Court to revisit the factual findings of the lower courts. Well established is the doctrine that under Rule 45 of the Rules of Court, only questions of law, not of fact, may be raised before the Supreme Court. It must be stressed that this Court is not a trier of facts and it is not its function to re-examine and weigh anew the respective evidence of the parties. Factual findings of the trial court, especially those affirmed by the CA, are conclusive on this Court when supported by the evidence on record.[14] While this Court has recognized several exceptions to this rule,[15] none of these exceptions applies here.

Both the trial court and the CA found that South Pacific was liable for the unregistered electric power consumption which it failed to pay due to its defective meters' inability to reflect the correct number of kilowatt hours actually used.[16] As held by the CA:

> Contrary to South Pacific's contention that the award of P6,199,393.02 in favor of Meralco was not supported by evidence, We believe, however, that the latter is entitled to said amount. The lower court, in its assailed Decisions, was able to arrive at its own computation based on the figures submitted by Meralco which South

> Pacific failed to refute. These figures were apparently arrived at based on the findings during routine inspections, laboratory tests and computations made by Meralco in accordance with the stipulation in the service contracts providing that in the event any meter fails to register the full amount of energy consumed, "the Customer shall be billed for such period on an estimated consumption based upon his use of energy in a similar period of like use." There was nothing irregular in the manner that Meralco was able to come up with the adjusted billings.[17]

We see no reason to disturb these findings.

Both the trial court and the CA also found that Meralco was not entitled to the differential billings in the total amount of P397,155.94:

> xxx However, the Court is at a loss how [Meralco] arrived at the computation of the differential bills under Account No. 9487-4712-12 in the amount of P12,288.97 as a result of the June 17, 1981 inspection; the amount of P121,470.90 on January 16, 1982 inspection of Account No. 9487-4922-18; the amount of P73,496.33 on April 13, 1981 inspection of Account No. 9498-9012-18 (old); the amount of P62,695.72 on November 21, 1983 inspection of Account No. 9487-9022-16 (New) and the amount of P127,204.02 on April 13, 1981 inspection of Account No. 9487-9212-16. The date or period when the computation of differential billings as the result of the inspections conducted on June 17, 1981 of Account No. 9487-4712-12; the inspection on January 16, 1982 of Account No. 9487-4922-18; the inspection on April 13, 1981 of Account No. 9498-90[1]2-18 (old); the inspection on November 21, 1983 of Account No. 9487-9022-16 (New) and the inspection on April 13, 1981 of Account No. 9487-9212-16 started and the reasons thereof [were] not clearly and convincingly given/explained by [Meralco]. There is no clear and positive evidence of the exact date prior to the inspection conducted on June 17, 1981, January 16, 1982, April 13, 1981, November 21, 1983 and April 13, 1981 of the respective accounts numbers when the meters failed to register the actual electric consumption of [South Pacific]. There is no convincing proof when [South Pacific] started to benefit out of the unregistered electric energy. The abnormally low registration in the meters could have been caused by other factors and not a conclusive proof/result of the tampered condition of the meter or metering facilities. The Court is of the considered view that [South Pacific] should not be held liable to pay the differential bills corresponding to the said periods in the total amount of P397,155.94. The said adjusted billings appeared to be without factual and legal basis.[18]

No compelling reason has been shown by Meralco for this Court to disturb and reverse the trial court's findings and conclusions, as affirmed by the CA.

Likewise, the award of exemplary damages to Meralco must be sustained. The CA granted exemplary damages because South Pacific acted in a fraudulent manner:[19]

> On numerous occasions, and while in the presence of South Pacific's officers, Meralco agents were able to discover that the former had been using a removable short circuiting device as indicated by the pricked holes on the secondary current leads for lower and upper element near the [bushing current transformer or] BCT terminal. Further inspection revealed that the [BCT] terminal, main terminal and cover seals of the electric meters were deformed. This meant that the electric meters concerned were not registering the full amount of electric energy actually being used by the former. These, among other instances, point to South Pacific's culpability. It would seem inconceivable for all the four electric meters inside South Pacific's premises to be in such a defective condition even without any deliberate act on its part. The evidence in the case at bar affords a substantial basis of fact to justify a conclusion that South Pacific must be held responsible for the tampered meters.[20]

Again, fraud is a question of fact which must be alleged and proved at the level of the courts below.[21] Fraud cannot be presumed and must be proven by clear and convincing evidence.[22] We agree with the CA that it was incredible that not just one but all four meters in South Pacific's premises would, at the same time, fail to

completely register the amount of energy consumed. South Pacific's full physical control of these meters clearly enabled it to tamper with them and this undeniably redounded to its benefit.

Lastly, we also affirm the award for attorney's fees, considering the exemplary damages granted.[23]

WHEREFORE, both petitions are hereby DENIED. The assailed decision of the Court of Appeals dated July 28, 2000 in CA-G.R. SP No. 41399 is AFFIRMED in toto.

Costs against both parties.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

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[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Bernardo LL. Salas (now deceased) and concurred in by Associate Justices Presbitero J. Velasco, Jr. (now Associate Justice of the Supreme Court) and Edgardo P. Cruz of the 17th Division of the Court of Appeals; rollo (G.R. No. 144215), pp. 7-18; rollo (G.R. No. 144300), pp. 37-47.

[3] Rollo (G.R. No. 144215), p. 17; rollo (G.R. No. 144300), p. 46.

[4] Rollo (G.R. No. 144215), p. 196.

[5] Rollo (G.R. No. 144215), pp. 9-11; rollo (G.R. No. 144300), pp. 38-40; citations omitted.

[6] Amended Decision, rollo (G.R. No. 144215), p. 55; rollo (G.R. No. 144300), p. 166.

[7] Rollo (G.R. No. 144300), p. 20.

[8] Id., p. 161.

[9] Id., p. 165.

[10] Rollo (G.R. No. 144215), pp. 118-119; rollo (G.R. No. 144300), pp. 228-229.

[11] Rollo (G.R. No. 144300), p. 22.

[12] Rollo (G.R. No. 144215), p. 36.

[13] Id., p. 39.

[14] Pleyto v. Lomboy, G.R. No. 148737, 16 June 2004, 432 SCRA 329, 336, citations omitted.

[15] The exceptions are: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, will justify a different conclusion; Langkaan Realty Development, Inc. v.

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United Coconut Planters Bank, G.R. No. 139437, 8 December 2000, 347 SCRA 542, 549; Nokom v. National Labor Relations Commission, 390 Phil. 1228, 1242 (2000); CIR v. Embroidery and Garments Industries (Phil.), Inc., 364 Phil. 541, 546-547 (1999); Sta. Maria v. Court of Appeals, 349 Phil. 275, 282-283 (1998).[16] CA Decision, rollo (G.R. No. 144215), p. 14; rollo (G.R. No. 144300), p. 43.

[17] Rollo (G.R. No. 144215), p. 14; rollo (G.R. No. 144300), p. 43.

[18] Trial Court Decision, rollo (G.R. No. 144215), pp. 116-117; rollo (G.R. No. 144300), pp. 227-228, as cited in the CA Decision, rollo (G.R. No. 144215), p. 50; rollo (G.R. No. 144300), p. 44.

[19] Citing Art. 2232 of the Civil Code: In contracts and quasi-contracts, the court may award exemplary damages if the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner.

[20] Rollo (G.R. No. 144215), p. 16; rollo (G.R. No. 144300), p. 45.

[21] Philippine American Life Insurance Company v. Court of Appeals, G.R. No. 126223, 15 November 2000, 344 SCRA 620, 626, citing BF Corporation v. Court of Appeals, 351 Phil. 507 (1998); Chua v. Court of Appeals, 312 Phil. 857 (1995); Periquet v. Intermediate Appellate Court, G.R. No. 69996, 5 December 1994, 238 SCRA 697.

[22] Mindanao State University v. Roblett Industrial and Construction Corp., et al., G.R. No. 138700, 9 June 2004, 431 SCRA 458, 467, citing Francisco Alonso v. Cebu Country Club, Inc., G.R. No. 130876, 5 December 2003 417 SCRA 115; Remo, Jr. v. Intermediate Appellate Court, G.R. No. 67626, 18 April 1989, 172 SCRA 405, 414.

[23] Civil Code, Art. 2208 (1).

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