

SAMAR II ELECTRIC COOPERATIVE, INC., AND BALTAZAR DACULA, PETITIONERS, VS. ESTRELLA QUIJANO, RESPONDENT.

G.R. NO. 144474. April 27, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

By way of a Petition for Review on Certiorari under Rule 45 of the Rules of Court, petitioners Samar Electric Cooperative, Inc. (SAMELCO) and Baltazar Dacula (Dacula) assail the September 7, 1999 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 32035,[2] which affirmed in toto the January 15, 1991 Decision of the Regional Trial Court (RTC), and the July 17, 2000 CA Resolution[3] which denied petitioners' Motion for Reconsideration.

The facts which are not disputed are summarized below.

SAMELCO observed the reduction by more or less 50% in the electric consumption from April 1983 to March 1984 of one of its customers, spouses Norberto and Estrella Quijano, as registered in their electric meter.[4]

On May 14, 1984, SAMELCO sent an inspection team, headed by Dacula, to the residence of the Spouses Quijano. Upon inspection of the electric meter, the team found that it no longer had the three meter seals previously attached to it and the rotating disc was adjusted upward causing it to stop intermittently.[5] The inspection team then removed the device and disconnected the spouses' electric service. The Spouses Quijano were not at home when all these happened; only their seventeen-year old daughter, Jenny Quijano, was around.

The following day, the Spouses Quijano requested SAMELCO to restore their electric service but SAMELCO required them to pay penalty charges for allegedly tampering with the electric meter. The Spouses Quijano refused to pay, insisting that their electric meter was not tampered with. Instead, they filed a Complaint[6] for Damages with the RTC against SAMELCO and Dacula. The latter filed a Motion to Dismiss[7] on the ground that the complaint involves an intra-corporate dispute between SAMELCO as an electric cooperative and Spouses Quijano as its members and that jurisdiction over it is vested in the Securities and Exchange Commission. The RTC denied the motion in an Order[8] dated November 9, 1984.

After trial, the RTC rendered a Decision dated January 15, 1991, holding SAMELCO and Dacula solidarily liable for damages, thus:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants, ordering the latter to comply with the following, to wit:

- to pay plaintiffs solidarily the amount of five thousand (P5,000.00) pesos for actual damages; twenty thousand (P20,000.00) pesos for moral damages; five thousand (P5,000.00) pesos for exemplary damages; and five thousand (P5,000.00) pesos for attorney's fees plus two thousand (P2,000.00) pesos for litigation expenses; and
- to return and reconnect the electric meter of the plaintiff to its original installation immediately upon request

of the plaintiffs.

SO ORDERED.[9]

SAMELCO and Dacula appealed[10] but were rebuffed by the CA in the September 7, 1999 Decision assailed herein. Their Motion for Reconsideration[11] was also denied by the CA in its July 17, 2000 Resolution.

SAMELCO and Dacula (petitioners) took the present recourse to have the September 7, 1999 CA Decision and January 15, 1991 RTC Decision reversed on the following grounds:

- The trial court and the Honorable Court of Appeals committed an error of law in their interpretation and application of Articles 19 and 21 of the Civil Code.
- SAMELCO II was not primarily motivated by hatred or desire to cause damage or prejudice upon herein respondent and her family but rather by its desire to save itself from financial destruction by eliminating, if not minimizing, pilferage of electricity.
- There was sufficient factual basis for SAMELCO II to inspect its own electric meter installed at the store and residence of herein respondent.
- Herein petitioners' inspection of the electric meter and the electric appliances and contrivances inside the store and residence of herein respondent was practically with prior authority from the latter.
- The inspection of the electric meter and of herein respondents' appliances, lamps and other electrical gadgets, as well as the removal of the meter, were not done in wanton and high-handed manner. No "abuse of right" was ever committed by herein petitioners.
- The Honorable Court of Appeals erred in not dismissing the complaint of herein respondent on the ground of lack of jurisdiction.[12]

We will address the jurisdictional issue ahead of the substantive ones.

There has been quite a number of cases where we recognized the original jurisdiction of the RTC over actions for damages or injunction arising from the arbitrary disconnection of electrical services.[13] The case most akin to the present petition is *Sps. Quisumbing v. Meralco*[14] where the Court sustained with modification the RTC and CA decisions which awarded damages to the spouses Quisumbing for the arbitrary manner in which Meralco disconnected their electric service.

Petitioners, nonetheless, reiterate the arguments in their Motion for Reconsideration with the CA that, as respondents are its members-consumers, their complaint falls within the jurisdiction of the NEA based on Sections 10, 35 and 46 of Presidential Decree (P.D.) No. 269.[15]

This Court is not persuaded. No such adjudicatory power is vested by P.D. No. 269 in NEA.

Petitioners relied only on the first paragraph of Section 10 of P.D. No. 269 (as amended by P.D. No. 1645) the full text of which reads:

Sec. 10. Enforcement Powers and Remedies. — In the exercise of its power of supervision and control over electric cooperatives and other borrower, supervised or controlled entities, the NEA is empowered to issue orders, rules and regulations and motu proprio or upon petition of third parties, to conduct investigations, referenda and other similar actions in all matters affecting said electric cooperatives and other borrower, or supervised or controlled entities.

If the electric cooperative concerned or other similar entity fails after due notice to comply with NEA orders, rules and regulations and/or decisions, or with any of the terms of the Loan Agreement, the NEA Board of

Administrators may avail of any or all of the following remedies:

- (a) Refuse to make or approve any loan to the borrower or to release funds to implement loans that are otherwise already approved;
- (b) Withhold NEA advances, or withhold approval of advances or fund releases in behalf of any other lender with respect to which the NEA has such power relative to loans made;
- (c) Withhold any technical or professional assistance otherwise being furnished or that might be furnished to the borrower;
- (d) Foreclose any mortgage or deed of trust or other security hold by the NEA on the properties of such borrower, in connection with which the NEA may subject to any superior or co-equal rights in such lien held by any other lender, (1) bid for and purchase or otherwise acquire such properties; (2) pay the purchase price thereof and any costs and expenses incurred in connection therewith out of the revolving fund; (3) accept title to such properties in the name of the Republic of the Philippines; and (4) even prior to the institution of foreclosure proceedings, operate or lease such properties for such period, and in such manner as may be deemed necessary or advisable to protect the investment therein, including the improvement, maintenance and rehabilitation of systems to be foreclosed, but the NEA may, within five years after acquiring such properties in foreclosure proceedings, sell the same for such consideration as it determines to be reasonable and upon such terms and conditions as it determines most conducive to the achievement of the purposes of this Decree; or
- (e) Take preventive and/or disciplinary measures including suspension and/or removal and replacement of any or all of the members of the Board of Directors, officers or employees of the Cooperative, other borrower institutions or supervised or controlled entities as the NEA Board of Administrators may deem fit and necessary and to take any other remedial measures as the law or the Loan Agreement may provide.

No Cooperative shall borrow money from any source without the Board of Administrator's prior approval: Provided, That the NEA Board of Administrators, may, by appropriate rule or regulation, grant general permission to Cooperative to secure short-term loans not requiring the encumbrance of their real properties or of a substantial portion of their other properties or assets.

It is a fundamental rule in statutory construction that the clauses, phrases, sections and provisions of a law be read as a whole; never as disjointed or truncated parts,[16] for a law is enacted as a single entity and not by installment of paragraphs here and subsections there.[17] Applying this rule to Section 10, its opening paragraph must be read in relation to the succeeding subsections. The phrase in the opening paragraph ostensibly vesting in the NEA jurisdiction over "all matters" involving electric cooperatives actually pertain to the subjects covered in the succeeding subsections such as the organization of electric cooperatives,[18] rate fixing,[19] loan agreements and fund management. This is a rational understanding of Section 10 for, as specified in the preamble of the law, the primary purpose of the NEA is to ensure total electrification through the administration of funds for the establishment and operation of electric cooperatives.

Petitioners' reliance on Section 35 of P.D. No. 269 is likewise misplaced. The provision reads:

Section 35. Non-profit, Non-discriminatory, Area Coverage Operation and Service. A cooperative shall be operated on a non-profit basis for the mutual benefit of its members and patrons; shall, as to rates and services make or grant no unreasonable preference or advantage to any member or patron nor subject any member or patron to any unreasonable prejudice or disadvantage; shall not establish or maintain any unreasonable difference as to rates or services either as between localities or as between classes of service; shall not give, pay or receive any rebate or bonus, directly or indirectly, or mislead its members in any manner as to rates charged for its services; and shall furnish service on an area coverage basis; Provided, That for any extension of service which if treated on the basis of standard terms and conditions is so costly as to jeopardize the

financial feasibility of the cooperative's entire operation, the cooperative may require such contribution in aid of construction, such facilities extension deposit, such guarantee of minimum usage for a minimum term or such other reasonable commitment on the part of the person to be served as may be necessary and appropriate to remove such jeopardy, but no difference in standard rates for use of service shall be imposed for such purpose.

The by-laws of a cooperative or its contracts with members and patrons shall contain such reasonable terms and conditions respecting membership, the furnishing of service and the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its non-profit, cooperative character and to ensure compliance with this section. No bona fide applicant for membership on non-member patronage who is able and willing to satisfy and abide by all such terms and conditions shall be denied arbitrarily, capriciously or without good cause. (Emphasis supplied)

Section 35 merely declares discriminatory practices regarding rate fixing and delivery of services as contrary to public policy. Arbitrary service disconnection per se is not a discriminatory practice unless it is alleged and established that the party prejudiced by the disconnection was purposely singled out or differentiated against. There is no allegation nor proof by the Spouses Quijano (respondents) that there was a purposeful discriminatory design by petitioners in depriving them of electric service. By no stretch of the imagination may Section 10 be construed to vest in the NEA jurisdiction to resolve claims for damages arising from arbitrary service disconnection.

Section 46 of P. D. No. 269 which provides:

Section 46. Additional Regulation of Cooperatives by the NEA. In addition to the other ways in which cooperatives are subject to regulation by the NEA as provided in this Decree, the NEA, on its own motion or upon complaint but only after affording opportunity for hearing to all interested parties, is empowered to and shall (1) require a cooperative to extend or improve service upon the NEA's determination that such should be done in furtherance of the purposes of this Decree and that such may reasonably be done without undue impairment of the feasibility of the cooperative's operation and financial condition; and (2) require a cooperative to cease and correct any practice or act which the NEA determines to be in violation of the provisions of Section 35, and in connection with such authority it may require a cooperative to file with the NEA, and to make accessible to any person upon request therefore, copies of all rates, charges, contract forms, fee or deposit schedules, by-laws, and service rules and regulations.

is also inapplicable. It empowers the NEA to compel electric cooperatives to "extend or improve service" in furtherance of the purposes of P.D. No. 269. There is nothing in this provision, however, granting the NEA authority to hold an electric cooperative liable for damages arising from its arbitrary disconnection of electrical services to a member or to order said electric cooperative to re-connect such services.

To recapitulate, while P.D. No. 269 appoints the NEA as overseer of electric cooperatives, its supervision is limited to matters concerning loans, rate fixing and service improvement, but does not include adjudication of claims for damages against electric cooperatives arising from such acts as the arbitrary disconnection of electrical services to a member. It is axiomatic that jurisdiction is determined by the allegations in the complaint and its annexes.[20] There is no allegation therein of matters involving the organization of electric cooperatives, rate fixing, loan agreement and fund management which would bring the case within the operation of Section 10; neither is there an averment of a discriminatory practice in rate fixing or service distribution, which would make Section 35 applicable; nor protest against service failure as would subject the complaint to Section 46. Instead, it is expressly stated in respondents' complaint that their action is for recovery of damages for mental anguish, social humiliation and moral shock arising from the disconnection of their electric service by petitioners,[21] which action is cognizable by the regular courts, such as the RTC.[22]

This brings us to the principal issue of whether the CA erred in sustaining the January 15, 1991 Decision of the RTC.

The RTC held petitioners liable for damages to respondents Spouses Quijano based on the finding that the inspection, removal and recalibration of the latter's electric meter and the disconnection of their electric service were all done without their consent or presence.[23] Concurring with this finding of the RTC, the CA held that the lack of consent to and presence of respondents in the whole process rendered whatever evidence petitioners may have gathered in the course thereof entirely dubious. The CA aptly explained:

Despite these, appellants still did not observe restraint in their actions as clearly shown by the evidence on record. Having resolved to disconnect the subject meter and to confirm that it was tampered, the inspection team should have formally notified the appellees that their meter was disconnected due to suspicion of tampering and altogether require them to be present when the meter would be calibrated at SAMELCO's meter laboratory. They did not. Even worse, the appellants proceeded to calibrate the meter in the absence of and without notice to the appellees or their representatives (T.S.N., January 14, 1987, p. 16). That smells bad faith. Instead of giving the appellees fair notice and warning, and affording them a reasonable opportunity to challenge the veracity of the alleged tampering, appellants had effectively left the Quijanos with the bleak alternative of either accepting the cooperative's finding as the gospel truth or suffer the possibility of living an uncomfortable life without electricity. It goes without saying that whimsical and capricious acts such as the one perpetrated by the appellants is violative of the due process and frowned upon by the morals and good customs of every civilized society. In this jurisdiction, such act could neither be condoned nor tolerated.

Ironically, appellants had every opportunity to present evidence within their control to establish that they had given the appellees ample notice and an adequate opportunity to ascertain the truthfulness of their findings. Yet, aside from their bare declarations which We find to be self-serving, no such credible evidence was proffered. For this reason, there are not enough evidence submitted to overturn the lower court's finding of bad faith thus, appellants must necessarily suffer the consequences of their own inaction and indifference.[24]

We agree with the CA.

Electricity is property[25] the enjoyment of which the provider, such as an electric cooperative like Samelco, may extend or deny to others.[26] However, electricity is not just any property, and an electric cooperative is not just any property owner. Electricity is a basic necessity the generation and distribution of which is imbued with public interest, and its provider is a public utility subject to strict regulation by the State in the exercise of police power.[27] Failure to comply with these regulations will give rise to the presumption of bad faith or abuse of right.[28]

Against electricity pilferage, an electric cooperative is allowed certain measures of self-preservation. The present law, Republic Act (R.A.) No. 7832[29] (as amended by Republic Act No. 9136), allows electric cooperatives multiple remedies consisting of immediate disconnection of the electric service of the erring consumer,[30] criminal prosecution,[31] and the imposition of surcharges.[32]

Prior to R.A. No. 7832, however, the remedies available to electric cooperatives were limited. Under Presidential Decree No. 401[33] (P.D. No. 401), the remedies available to it were merely the conduct of inspections of electric meters and the criminal prosecution of those erring consumers who were found to have tampered with their electric meters, thus:

Section 1. Any person who installs any water, electrical, telephone or piped gas connection without previous authority from the Metropolitan Waterworks and Sewerage System, the Manila Electric Company, the Philippine Long Distance Telephone Company, or the Manila Gas Corporation, as the case may be, tampers and/or uses tampered water, electrical or gas meters, jumpers or other devices whereby water, electricity or

piped gas is stolen; steals or pilfers water, electric or piped gas meters, or water, electric and/or telephone wires, or piped gas pipes or conduits; knowingly possesses stolen or pilfered water, electrical or gas meters as well as stolen or pilfered water, electrical and/or telephone wires, or piped gas pipes and conduits, shall, upon conviction, be punished with prison correccional in its minimum period or a fine ranging from two thousand to six thousand pesos, or both.

P.D. No. 401 did not expressly provide for more expedient remedies such as the charging of differential billing and immediate disconnection against erring consumers. Thus, electric cooperatives found a creative way of availing of such remedies by inserting into their service contracts a provision for differential billing with option of disconnection upon non-payment by the erring consumer. The Court has recognized the validity of such stipulations.[34]

However, recourse to the remedy of differential billing with disconnection was subject to strict regulation,[35] specifically under Sections 96 and 97 of Revised General Order No. 1, which provide:

Sec. 96. Refusal or discontinuance of service. — A public service shall not refuse or discontinue service to an applicant, or customer, who is not in arrears to the public service, even though there are unpaid charges due from the premises occupied by applicant, or customer, on account of unpaid bill of a prior tenant, unless there is evidence of conspiracy between them to defraud public service.

Sec. 97. Payment of bills. — A public service may require that bills for service be paid within a specified time after rendition. When the billing period covers a month or more, the minimum time allowed will be ten days and upon expiration of the specified time, service may be discontinued for the non-payment of bills, provided that a 48-hours' written notice of such disconnection has been given the customer; Provided, however, That disconnections of service shall not be made on Sundays and official holidays and never after 2 p.m., or any working day; Provided, further, that if at the moment the disconnection is to be made the customer tenders payment of the unpaid bill to the agent or employee of the operator who is to effect the disconnection, the said agent or employee shall be obliged to accept tendered payment and issue a temporary receipt for the amount and shall desist from disconnecting the service.

Significantly, electric cooperatives were not permitted to resort to outright disconnection without prior recourse to differential billing with notice.

The law in force at the time of the disconnection complained of in this case is P.D. No. 401. Hence, the requirements under said law are applicable to this case, specifically that disconnection be resorted to only after notice of differential billing as provided under Sections 96 and 97 above.

There is no question that herein petitioners resorted to disconnection without prior recourse to charging respondents differential billing and affording the latter opportunity to settle the same. This arbitrary action of petitioners rendered them in bad faith.

Moreover, as found by the CA and RTC, petitioners disconnected the electric meter of respondents without notice to the latter. Petitioners did not controvert these findings except to point out that respondents' ½ minor daughter was around and that Norberto Quijano was advised of the disconnection.[36] The presence of respondents' daughter did not excuse petitioners from notifying respondents prior to the disconnection. The advise to Norberto Quijano was also belated for it was given only after the fact of disconnection. The purpose of the notice requirement is to afford electric consumers opportunity to witness the inspection and protect themselves from contrived discovery of tampering. They must also be allowed to dispute any accusation of electricity pilferage. This purpose is not served by allowing inspection teams to swoop down on unsuspecting consumers.

In fine, petitioners abused the remedies available to them under P.D. No. 401 and Revised General Order No. 1 by

outrightly depriving respondents of electrical services, without first notifying the latter of any differential billing or informing them that their electrical services would be disconnected should they fail to settle their account. The CA, therefore, did not err in affirming the RTC.

WHEREFORE, the petition is DENIED. The September 7, 1999 Decision of the Court of Appeals is AFFIRMED.

Costs against petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), Callejo, Sr., Chico-Nazario, and Nachura, JJ., concur.

[1] Penned by Associate Justice Conrado M. Vasquez, Jr. and concurred in by Associate Justices Salome A. Montoya (now retired) and Teodoro P. Regino (now retired); rollo, p. 49.

[2] Entitled "Sps. Norberto Quijano and Estrella Quijano, Plaintiffs-Appellees, versus Samar Electric Cooperative, Inc., and Baltazar Dacula, Defendants-Appellants."

[3] Rollo, p. 70.

[4] Based on Exhibits "4-C," "4-D," "4-E," "4-F," "4-G," "4-H," "4-I," "4-J," "4-K," "5-C," "5-D," and "5-E." which petitioners cited on page 29 of the Petition which were not disputed by respondent in its Comment, and, based on the November 6, 1990 RTC Order, respondents did not question the existence and authenticity of said exhibits.

[5] CA Decision, p. 2; rollo, p. 50.

[6] Rollo, p. 64.

[7] Id. at 77.

[8] Id. at 79.

[9] Id. at 118.

[10] Id. at 51.

[11] Id. at 56.

[12] Petition for Review, rollo, pp. 31-42.

[13] Meralco v. Jose, G.R. No. 152769, February 14, 2007; Meralco v. Judge Navarro-Domingo, G.R. No. 161893, June 27, 2006, 493 SCRA 363, 367; Davao Light & Power Co., Inc. v. Judge, Regional Trial Court, Davao City, Br. 8, G.R. No. 147058, March 10, 2006, 484 SCRA 272, 281-284; Meralco v. Macro Textile Mills Corporation, 424 Phil. 811, 813 (2002).

[14] 429 Phil. 727 (2002)

[15] Petition, rollo, pp.43-44.

[16] Civil Service Commission v. Joson, Jr., G.R. No. 154674, May 27, 2004, 429 SCRA 773, 786.

[17] Judge Leynes v. Commission on Audit, 463 Phil. 557, 571 (2003).

[18] Silva v. Mationg, G.R. No. 160174, August 28, 2006, 499 SCRA 724, 737.

[19] *Province of Zamboanga del Norte v. Court of Appeals*, 396 Phil. 709, 715 (2000).

[20] *Fabia v. Court of Appeals*, 415 Phil. 656, 662 (2001); *Sta. Clara Homeowners' Association v. Sps. Gaston*, 425 Phil. 221, 239 (2002).

[21] *Rollo*, p. 7.

[22] *Sps. Quisumbing v. Meralco*, *supra* note 14, at 749.

[23] *Rollo*, pp. 114-116.

[24] CA Decision, *rollo*, pp. 53-54.

[25] *United States v. Carlos*, 21 Phil. 553, 560 (1911).

[26] Article 429 of the Civil Code reads:

The owner or lawful possessor of a thing has the right to exclude any person from the enjoyment and disposal thereof. For this purpose, he may use such force as may be reasonable to repel or prevent an actual or threatened unlawful physical invasion or usurpation of his property.

[27] *Republic v. Manila Electric Company*, 440 Phil. 389, 397 (2002).

[28] *Manila Electric Company v. Hon. Lorna Navarro-Domingo*, G.R. No. 161893, June 27, 2006, 493 SCRA 363, 371.

[29] Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act (December 8, 1994).

[30] Sec. 6. Disconnection of Electric Service. — The private electric utility or rural electric cooperative concerned shall have the right and authority to disconnect immediately the electric service after serving a written notice or warning to that effect, without the need of a court or administrative order, and deny restoration of the same, when the owner of the house or establishment concerned or someone acting in his behalf shall have been caught *en flagrante delicto* doing any of the acts enumerated in Section 4(a) hereof, or when any of the circumstances so enumerated shall have been discovered for the second time: Provided, That in the second case, a written notice or warning shall have been issued upon the first discovery: Provided, further, That the electric service shall not be immediately disconnected or shall be immediately restored upon the deposit of the amount representing the differential billing by the person denied the service, with the private electric utility or rural electric cooperative concerned or with the competent court, as the case may be: Provided, furthermore, That if the court finds that illegal use of electricity has not been committed by the same person, the amount deposited shall be credited against future billings, with legal interest thereon chargeable against the private utility or rural electric cooperative, and the utility or cooperative shall be made to immediately pay such person double the value of the payment or deposit with legal interest, which amount shall likewise be creditable against immediate future billings, without prejudice to any criminal, civil or administrative action that such person may be entitled to file under existing laws, rules and regulations: Provided, finally, That if the court finds the same person guilty of such illegal use of electricity, he shall, upon final judgment, be made to pay the electric utility or rural electric cooperative concerned double the value of the estimated electricity illegally used which is referred to in this section as differential billing.

For purposes of this Act, "differential billing" shall refer to the amount to be charged to the person concerned for the unbilled electricity illegally consumed by him as determined through the use of methodologies which utilize, among others, as basis for determining the amount of monthly electric consumption in kilowatt-hours to be billed, either: (a) the highest recorded monthly consumption within the five-year billing period preceding the time of the

discovery, (b) the estimated monthly consumption as per the report of load inspection conducted during the time of discovery, (c) the higher consumption between the average consumptions before or after the highest drastic drop in consumption within the five-year billing period preceding the discovery, (d) the highest recorded monthly consumption within four (4) months after the time of discovery, or (e) the result of the ERB test during the time of discovery and, as basis for determining the period to be recovered by the differential billing, either: (1) the time when the electric service of the person concerned recorded an abrupt or abnormal drop in consumption, or (2) when there was a change in his service connection such as a change of meter, change of seal or reconnection, or in the absence thereof, a maximum of sixty (60) billing months, up to the time of discovery: Provided, however, That such period shall, in no case, be less than one (1) year preceding the date of discovery of the illegal use of electricity.

[31] Sec. 7. Penalties.—

- Violation of Section 2 — The penalty of prison mayor or a fine ranging from Ten thousand pesos (P10,000) to Twenty thousand pesos (P20,000) or both, at the discretion of the court, shall be imposed on any person found guilty of violating Section 2 hereof.
- Violation of Section 3 — The penalty of reclusion temporal or a fine ranging from Fifty thousand pesos (P50,000) to One hundred thousand pesos (P100,000) or both, at the discretion of the court, shall be imposed on any person found guilty of violating Section 3 hereof.
- Provision common to violations of Section 2 and Section 3 hereof — If the offense is committed by, or in connivance with, an officer or employee of the power company, private electric utility or rural electric cooperative concerned, such officer or employee shall, upon conviction, be punished with a penalty one (1) degree higher than the penalty provided herein, and forthwith be dismissed and perpetually disqualified from employment in any public or private utility or service company and from holding any public office.

If, in committing any of the acts enumerated in Section 4 hereof, any of the other acts as enumerated is also committed, then the penalty next higher in degree as provided herein shall be imposed. If the offense is committed by, or in connivance with an officer or employee of the electric utility concerned, such officer or employee shall, upon conviction, be punished with a penalty one (1) degree higher than the penalty provided therein, and forthwith be dismissed and perpetually disqualified from employment in any public or private utility or service company. Likewise, the electric utility concerned which shall have knowingly permitted or having knowledge of its commission shall have failed to prevent the same, or was otherwise guilty of negligence in connection with the commission thereof, shall be made to pay a fine not exceeding triple the amount of the "differential billing" subject to the discretion of the courts. If the violation is committed by a partnership, firm, corporation, association or any other legal entity, including a government-owned or -controlled corporation, the penalty shall be imposed on the president, manager and each of the officers thereof who shall have knowingly permitted, failed to prevent or was otherwise responsible for the commission of the offense.

[32] Sec. 8. Authority to Impose Violation of Contract Surcharges. — A private electric utility or rural electric cooperative may impose surcharges, in addition to the value of the electricity pilfered, on the bills of any consumer apprehended for tampering with his electric meter/metering facility installed on his premises, as well as other violations of contract like direct connection, use of jumper, and other means of illicit usage of electricity found installed in the premises of the consumer. The surcharge for the violation of contract shall be collected from and paid by the consumer concerned as follows:

First apprehension — Twenty-five percent (25%) of the current bill as surcharge;

Second apprehension — Fifty percent (50%) of the current bill as surcharge; and

Third and subsequent apprehension — One hundred percent (100%) of the current bill as surcharge.

The private electric utility or rural electric cooperative is authorized to discontinue the electric service in case the consumer is in arrears in the payment of the above imposed surcharges. The term "apprehension" as used herein shall be understood to mean the discovery of the presence of any of the circumstances enumerated in Section 4 hereof in the establishment or outfit of the consumer concerned.

[33] Penalizing the Unauthorized Installation of Water, Electrical or Telephone Connections, the Use of Tampered Water or Electrical Meter, and Other Acts (March 1, 1974); as amended by P.D. No. 401-A.

[34] *Ridjo Tape and Chemical Corporation v. Court of Appeals*, 350 Phil. 184, 193 (1998); *Manila Electric Company v. Jose*, G.R. No. 152769, February 14, 2007.

[35] *Manila Electric Company v. Court of Appeals*, No. L-39019, January 22, 1988, 157 SCRA 243, 247, citing Revised General Order No. 1 of the Public Service Commission; *Ceniza v. Court of Appeals*, G.R. No. 95296, February 3, 1993, 218 SCRA 390, 400.

[36] Petition, rollo, p. 40.

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