

METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM, PETITIONER, VS. ACT THEATER, INC., RESPONDENT.

G.R. No. 147076. June 17, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court is a petition for review on certiorari filed by the Metropolitan Waterworks and Sewerage System (MWSS), seeking to reverse and set aside the Decision[1] dated January 31, 2001 of the Court of Appeals in CA-G.R. CV No. 58581, which affirmed the civil aspect of the Decision[2] dated May 5, 1997 of the Regional Trial Court of Quezon City, Branch 77, directing the petitioner MWSS to pay the respondent Act Theater, Inc. damages and attorney's fees.

The present case stemmed from the consolidated cases of Criminal Case No. Q-89-2412 entitled *People of the Philippines v. Rodolfo Tabian, et al.*, for violation of Presidential Decree (P.D.) No. 401, as amended by Batas Pambansa Blg. 876, and Civil Case No. Q-88-768 entitled *Act Theater, Inc. v. Metropolitan Waterworks and Sewerage System*. The two cases were jointly tried in the court a quo as they arose from the same factual circumstances, to wit:

On September 22, 1988, four employees of the respondent Act Theater, Inc., namely, Rodolfo Tabian, Armando Aguilar, Arnel Concha and Modesto Ruales, were apprehended by members of the Quezon City police force for allegedly tampering a water meter in violation of P.D. No. 401, as amended by B.P. Blg. 876. The respondent's employees were subsequently criminally charged (Criminal Case No. Q-89-2412) before the court a quo. On account of the incident, the respondent's water service connection was cut off. Consequently, the respondent filed a complaint for injunction with damages (Civil Case No. Q-88-768) against the petitioner MWSS.

In the civil case, the respondent alleged in its complaint filed with the court a quo that the petitioner acted arbitrarily, whimsically and capriciously, in cutting off the respondent's water service connection without prior notice. Due to lack of water, the health and sanitation, not only of the respondent's patrons but in the surrounding premises as well, were adversely affected. The respondent prayed that the petitioner be directed to pay damages.

After due trial, the court a quo rendered its decision, the dispositive portion of which reads:

In Criminal Case No. Q-89-2412

WHEREFORE, for failure of the prosecution to prove the guilt of the accused beyond reasonable doubt, the four (4) above-named Accused are hereby ACQUITTED of the crime charged.[3]

In Civil Case No. Q-88-768

...

- Ordering defendant MWSS to pay plaintiff actual or compensatory damages in the amount of P25,000.00; and to return the sum of P200,000.00 deposited by the plaintiff for the restoration of its water services after its

disconnection on September 23, 1988;

- Defendant's counterclaim for undercollection of P530,759.96 is dismissed for lack of merit;
- Ordering defendant MWSS to pay costs of suit;
- Ordering defendant MWSS to pay plaintiff the amount of P5,000.00 as attorney's fees;
- Making the mandatory injunction earlier issued to plaintiff Act Theater, Inc. permanent.

SO ORDERED.[4]

Aggrieved, the petitioner appealed the civil aspect of the aforesaid decision to the CA. The appellate court, however, dismissed the appeal. According to the CA, the court a quo correctly found that the petitioner's act of cutting off the respondent's water service connection without prior notice was arbitrary, injurious and prejudicial to the latter justifying the award of damages under Article 19 of the Civil Code.

Undaunted, the petitioner now comes to this Court alleging as follows:

I

WHETHER OR NOT THE HONORABLE COURT OF APPEAL[S] VALIDLY AFFIRMED THE DECISION OF THE REGIONAL TRIAL COURT IN RESOLVING THE PETITIONER'S APPEAL;

II

WHETHER OR NOT THE HONORABLE COURT OF APPEALS VALIDLY UPHELD THE AWARD OF ATTORNEY'S FEES;

III

WHETHER OR NOT THE HONORABLE COURT OF APPEAL[S] CORRECTLY APPLIED THE PROVISION OF ARTICLE 19 OF THE NEW CIVIL CODE WITHOUT CONSIDERING THE APPLICABLE PROVISION OF ARTICLE 429 OF THE SAME CODE.[5]

Preliminarily, the petitioner harps on the fact that, in quoting the decretal portion of the court a quo's decision, the CA erroneously typed P500,000 as the attorney's fees awarded in favor of the respondent when the same should only be P5,000. In any case, according to the petitioner, whether the amount is P500,000 or P5,000, the award of attorney's fees is improper considering that there was no discussion or statement in the body of the assailed decision justifying such award. The petitioner insists that in cutting off the respondent's water service connection, the petitioner merely exercised its proprietary right under Article 429 of the Civil Code.

The petition is devoid of merit.

Article 429 of the Civil Code, relied upon by the petitioner in justifying its act of disconnecting the water supply of the respondent without prior notice, reads:

Art. 429. 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.

A right is a power, privilege, or immunity guaranteed under a constitution, statute or decisional law, or recognized as a result of long usage,[6] constitutive of a legally enforceable claim of one person against the other.[7]

Concededly, the petitioner, as the owner of the utility providing water supply to certain consumers including the respondent, had the right to exclude any person from the enjoyment and disposal thereof. However, the exercise of rights is not without limitations. Having the right should not be confused with the manner by which such right

is to be exercised.[8]

Article 19 of the Civil Code precisely sets the norms for the exercise of one's rights:

Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

When a right is exercised in a manner which discards these norms resulting in damage to another, a legal wrong is committed for which actor can be held accountable.[9] In this case, the petitioner failed to act with justice and give the respondent what is due to it when the petitioner unceremoniously cut off the respondent's water service connection. As correctly found by the appellate court:

While it is true that MWSS had sent a notice of investigation to plaintiff-appellee prior to the disconnection of the latter's water services, this was done only a few hours before the actual disconnection. Upon receipt of the notice and in order to ascertain the matter, Act sent its assistant manager Teodulo Gumalid, Jr. to the MWSS office but he was treated badly on the flimsy excuse that he had no authority to represent Act. Act's water services were cut at midnight of the day following the apprehension of the employees. Clearly, the plaintiff-appellee was denied due process when it was deprived of the water services. As a consequence thereof, Act had to contract another source to provide water for a number of days. Plaintiff-appellee was also compelled to deposit with MWSS the sum of P200,000.00 for the restoration of their water services.[10]

There is, thus, no reason to deviate from the uniform findings and conclusion of the court a quo and the appellate court that the petitioner's act was arbitrary, injurious and prejudicial to the respondent, justifying the award of damages under Article 19 of the Civil Code.

Finally, the amount of P500,000 as attorney's fees in that portion of the assailed decision which quoted the fallo of the court a quo's decision was obviously a typographical error. As attorney's fees, the court a quo awarded the amount of P5,000 only. It was this amount, as well as actual and compensatory damages of P25,000 and the reimbursement of P200,000 deposited by the respondent for the restoration of its water supply, that the CA affirmed, as it expressly stated in its dispositive portion that "finding no cogent reason to reverse the appealed Decision which is in conformity with the law and evidence, the same is hereby AFFIRMED." [11]

The award of P5,000 as attorney's fees is reasonable and warranted. Attorney's fees may be awarded when a party is compelled to litigate or incur expenses to protect his interest by reason of an unjustified act of the other party.[12]

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated January 31, 2001 in CA-G.R. CV No. 58581 is AFFIRMED in toto.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Penned by Associate Justice Portia Aliño-Hormachuelos, with Associate Justices Fermin A. Martin, Jr. and Mercedes Gozo-Dadole concurring.

[2] Penned by Judge Normandie B. Pizarro.

[3] Rollo, p. 35.

[4] Id. at 37.

[5] Id. at 13-14.

[6] BLACK'S LAW DICTIONARY, 6th Ed., p. 1324.

[7] Rellosa v. Pellosis, 362 SCRA 486 (2001).

[8] Paguio v. Philippine Long Distance Telephone Co., Inc., 393 SCRA 379 (2002).

[9] Rellosa v. Pellosis, *supra*.

[10] Rollo, p. 26.

[11] Id. at 27.

[12] Terminal Facilities and Services Corporation vs. Philippine Ports Authority, 378 SCRA 82 (2002).

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