

**AGUSAN DEL NORTE ELECTRIC COOPERATIVE, INC. (ANECO),
REPRESENTED BY ITS MANAGER ROMEO O. DAGANI, PETITIONER,
VS. ANGELITA BALEN AND SPOUSES HERCULES AND RHEA LARIOSA,
RESPONDENTS.**

G.R. No. 173146. November 25, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

On appeal is the February 21, 2006 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 66153, affirming the December 2, 1999 Decision[2] of the Regional Trial Court (RTC) of Butuan City, Branch 2, as well as its subsequent Resolution,[3] denying petitioner's motion for reconsideration.

Petitioner Agusan del Norte Electric Cooperative, Inc. (ANECO) is a duly organized and registered consumers cooperative, engaged in supplying electricity in the province of Agusan del Norte and in Butuan City. In 1981, ANECO installed an electric post in Purok 4, Ata-atahon, Nasipit, Agusan del Norte, with its main distribution line of 13,000 kilovolts traversing Angelita Balen's (Balen's) residence. Balen's father, Miguel, protested the installation with the District Engineer's Office and with ANECO, but his protest just fell on deaf ears.

On July 25, 1992, Balen, Hercules Lariosa (Lariosa) and Celestino Exclamado (Exclamado) were electrocuted while removing the television antenna (TV antenna) from Balen's residence. The antenna pole touched ANECO's main distribution line which resulted in their electrocution. Exclamado died instantly, while Balen and Lariosa suffered extensive third degree burns.

Balen and Lariosa (respondents) then lodged a complaint[4] for damages against ANECO with the RTC of Butuan City.

ANECO filed its answer[5] denying the material averments in the complaint, and raising lack of cause of action as a defense. It posited that the complaint did not allege any wrongful act on the part of ANECO, and that respondents acted with gross negligence and evident bad faith. ANECO, thus, prayed for the dismissal of the complaint.

After trial, the RTC rendered a Decision,[6] disposing that:

WHEREFORE, judgment is hereby rendered in favor of [respondents] and against [ANECO], directing, ordaining and ordering -

a) That [ANECO] pay [respondent] Angelita E. Balen the sum of One Hundred Thousand Pesos (PHP100,000.00) and [respondent] Hercules A. Lariosa the sum of Seventy Thousand Pesos (PHP70,000.00) as reimbursement of their expenses for hospitalization, medicines, doctor's professional fees, transportation and miscellaneous expenses;

b) That [ANECO] pay [respondent] Angelita E. Balen the sum of Seventy Two Thousand Pesos

(PHP72,000.00) for loss of income for three (3) years;

c) That [ANECO] pay [respondent] Angelita E. Balen the sum of Fifteen Thousand Pesos (PHP15,000.00) and another Fifteen Thousand Pesos (PHP15,000.00) to [respondent] Hercules A. Lariosa as moral damages, or a total of Thirty Thousand Pesos (PHP30,000.00);

d) That [ANECO] pay [respondents] Angelita E. Balen and Hercules A. Lariosa Two Thousand Pesos (PHP2,000.00) each or a total of Four Thousand Pesos (PHP4,000.00) as exemplary damages;

e) That [ANECO] pay [respondents] Angelita E. Balen and Hercules A. Lariosa Eight Thousand Pesos (PHP8,000.00) each or a total of Sixteen Thousand Pesos [(PHP 16,000.00)] as attorney's fees and the sum of Two Thousand Pesos (PHP2,000.00) each or a total of Four Thousand Pesos (PHP4,000.00) for expense of litigation;

f) That [ANECO] pay the costs of this suit;

g) The dismissal of [ANECO's] counterclaim; [and]

h) That the amount of Thirteen Thousand Pesos (PHP13,000.00) given by ANECO to [respondent] Angelita E. Balen and acknowledged by the latter to have been received (pre-trial order, record[s], pp. 36-37) must be deducted from the herein judgment debt.

SO ORDERED.[7]

On appeal, the CA affirmed in toto the RTC ruling. It declared that the proximate cause of the accident could not have been the act or omission of respondents, who were not negligent in taking down the antenna. The proximate cause of the injury sustained by respondents was ANECO's negligence in installing its main distribution line over Balen's residence. ANECO should have exercised caution, care and prudence in installing a high-voltage line over a populated area, or it should have sought an unpopulated area for the said line to traverse. The CA further noted that ANECO failed to put a precautionary sign for installation of wires over 600 volts, which is required by the Philippine Electrical Code.[8]

The CA disposed, thus:

WHEREFORE, premises considered, the assailed Decision is hereby AFFIRMED in toto.

SO ORDERED.[9]

ANECO filed a motion for reconsideration, but the CA denied it on May 26, 2006.[10]

Hence, this appeal.

Indisputably, Exclamado died and respondents sustained injuries from being electrocuted by ANECO's high-tension wire. These facts are borne out by the records and conceded by the parties.

ANECO, however, denied liability, arguing that the mere presence of the high-tension wires over Balen's residence did not cause respondents' injuries. The proximate cause of the accident, it claims, was respondents' negligence in removing the TV antenna and in allowing the pole to touch the high-tension wires. The findings of the RTC, it argues, patently run counter to the facts clearly established by the records. ANECO, thus, contends that the CA committed reversible error in sustaining the findings of the RTC.

The argument lacks merit.

Negligence is defined as the failure to observe for the protection of the interests of another person that degree of care, precaution, and vigilance which the circumstances justly demand, by reason of which such other person

suffers injury. The test to determine the existence of negligence in a particular case may be stated as follows: Did the defendant in the performance of the alleged negligent act use reasonable care and caution which an ordinary person would have used in the same situation? If not, then he is guilty of negligence. The existence of negligence in a given case is not determined by reference to the personal judgment of the actor in the situation before him. The law considers what would be reckless, blameworthy, or negligent in the man of ordinary intelligence and prudence and determines liability by that norm.[11]

The issue of who, between the parties, was negligent is a factual issue that this Court cannot pass upon, absent any whimsical or capricious exercise of judgment by the lower courts or an ample showing that they lacked any basis for their conclusions.[12] The unanimity of the CA and the trial court in their factual ascertainment that ANECO's negligence was the proximate cause of the injuries sustained by respondents bars us from supplanting their findings and substituting them with our own. The function of this Court is limited to the review of the appellate court's alleged errors of law. We are not required to weigh all over again the factual evidence already considered in the proceedings below.[13] ANECO has not shown that it is entitled to be excepted from this rule. It has not sufficiently demonstrated any special circumstances to justify a factual review.

That ANECO's negligence was the proximate cause of the injuries sustained by respondents was aptly discussed by the CA, which we quote:

The evidence extant in the record shows that the house of MIGUEL BALEN already existed before the high voltage wires were installed by ANECO above it. ANECO had to follow the minimum clearance requirement of 3,050 under Part II of the Philippine Electrical Code for the installation of its main distribution lines above the roofs of buildings or houses. Although ANECO followed said clearance requirement, the installed lines were high voltage, consisting of open wires, i.e., not covered with insulators, like rubber, and charged with 13, 200 volts. Knowing that it was installing a main distribution line of high voltage over a populated area, ANECO should have practiced caution, care and prudence by installing insulated wires, or else found an unpopulated area for the said line to traverse. The court a quo correctly observed that ANECO failed to show any compelling reason for the installation of the questioned wires over MIGUEL BALEN's house. That the clearance requirements for the installation of said line were met by ANECO does not suffice to exonerate it from liability. Besides, there is scarcity of evidence in the records showing that ANECO put up the precautionary sign: "WARNING-HIGH VOLTAGE-KEEP OUT" at or near the house of MIGUEL BALEN as required by the Philippine Electrical Code for installation of wires over 600 volts.

Contrary to its stance, it is in fact ANECO which provided the proximate cause of the injuries of [respondents].

One of the tests for determining the existence of proximate cause is the foreseeability test, viz.:

x x x - Where the particular harm was reasonably foreseeable at the time of the defendant's misconduct, his act or omission is the legal cause thereof. Foreseeability is the fundamental test of the law of negligence. To be negligent, the defendant must have acted or failed to act in such a way that an ordinary reasonable man would have realized that certain interests of certain persons were unreasonably subjected to a general but definite class of risk which made the actor's conduct negligent, it is obviously the consequence for the actor must be held legally responsible. Otherwise, the legal duty is entirely defeated. Accordingly, the generalization may be formulated that all particular consequences, that is, consequences which occur in a manner which was reasonably foreseeable by the defendant at the time of his misconduct are legally caused by his breach of duty x x x.

Thus applying aforecited test, ANECO should have reasonably foreseen that, even if it complied with the clearance requirements under the Philippine Electrical Code in installing the subject high tension wires above MIGUEL BALEN's house, still a potential risk existed that people would get electrocuted, considering that the wires were not insulated.

Above conclusion is further strengthened by the verity that MIGUEL BALEN had complained about the installation of said line, but ANECO did not do anything about it. Moreover, there is scant evidence showing that [respondents] knew beforehand that the lines installed by ANECO were live wires.

Otherwise stated, the proximate cause of the electrocution of [respondents] was ANECO's installation of its main distribution line of high voltage over the house of MIGUEL BALEN, without which the accident would not have occurred.

x x x x

x x x the taking down by [respondents] of the antenna in MIGUEL BALEN's house would not have caused their electrocution were it not for the negligence of ANECO in installing live wires over the roof of the said house.[14]

Clearly, ANECO's act of leaving unprotected and uninsulated the main distribution line over Balen's residence was the proximate cause of the incident which claimed Exclamado's life and injured respondents Balen and Lariosa. Proximate cause is defined as any cause that produces injury in a natural and continuous sequence, unbroken by any efficient intervening cause, such that the result would not have occurred otherwise.[15]

ANECO's contention that the accident happened only eleven (11) years after the installation of the high-voltage wire cannot serve to absolve or mitigate ANECO's liability. As we held in *Benguet Electric Cooperative, Inc. v. Court of Appeals*:[16]

[A]s an electric cooperative holding the exclusive franchise in supplying electric power to the towns of Benguet province, its primordial concern is not only to distribute electricity to its subscribers but also to ensure the safety of the public by the proper maintenance and upkeep of its facilities. It is clear to us then that BENECO was grossly negligent in leaving unprotected and uninsulated the splicing point between the service drop line and the service entrance conductor, which connection was only eight (8) feet from the ground level, in violation of the Philippine Electrical Code. BENECO's contention that the accident happened only on January 14, 1985, around seven (7) years after the open wire was found existing in 1978, far from mitigating its culpability, betrays its gross neglect in performing its duty to the public. By leaving an open live wire unattended for years, BENECO demonstrated its utter disregard for the safety of the public. Indeed, Jose Bernardo's death was an accident that was bound to happen in view of the gross negligence of BENECO.

Indeed, both the trial and the appellate courts' findings, which are amply substantiated by the evidence on record, clearly point to ANECO's negligence as the proximate cause of the damages suffered by respondents Balen and Lariosa. No adequate reason has been given to overturn this factual conclusion. In fine, the CA committed no reversible error in sustaining the RTC.

WHEREFORE, the petition is DENIED. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 66153 are AFFIRMED. Costs against petitioner.

SO ORDERED.

Corona, (Chairperson), Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

[1] Penned by Associate Justice Myrna Dimaranan-Vidal, with Associate Justices Romulo V. Borja and Ricardo R. Rosario, concurring; rollo, pp. 43-56.

[2] Records, pp. 341-367.

[3] Rollo, pp. 68-69.

[4] Records, pp. 1-6.

[5] Id. at 26-28.

[6] Id. at 341-367.

[7] Id. at 365-367.

[8] Supra note 1, at 52.

[9] Id. at 56.

[10] Supra note 3.

[11] See Dy Teban Trading, Inc. v. Ching, G.R. No. 161803, February 4, 2008, 543 SCRA 560.

[12] Philippine National Railways v. Brunty, G.R. No. 169891, November 2, 2006, 506 SCRA 685.

[13] Quezon City Government v. Dacara, G.R. No. 150304, June 15, 2005, 460 SCRA 243.

[14] Rollo, pp. 52-55.

[15] Quezon City Government v. Dacara, supra note 13.

[16] 378 Phil. 1137 (1999).

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