

MANILA ELECTRIC COMPANY, PETITIONER VS. PUBLIC SERVICE COMMISSION AND PEDRO J. VELASCO, RESPONDENTS. DR. PEDRO J. VELASCO, PETITIONER, VS. MANILA ELECTRIC COMPANY, RESPONDENT.

G.R. Nos. 13992 and 14035. September 30, 1960

Ponente: BENGZON, J.

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BENGZON, J.:

These two appeals relate to one complaint filed with the Public Service Commission by Pedro J. Velasco against Manila Electric Co. for violation of the latter's franchise and the Public Service Act. After hearing the complaint, the Commission found the Manila Electric guilty, and sentenced it to pay a fine of P200.00. Velasco appealed (G. R. No. L-14035) alleging that the fine was ridiculously negligible. Manila Electric also appealed (G. R. No. L-13992), contending there had been no violation, and that such violation, if any, had prescribed.

These two appeals should have been decided together; but having taken up the former without knowledge of the latter, we decided it on May 31, 1960. Its record (G. R. No. L-14035) made no mention of the Manila Electric's appeal. In fact, the defendant corporation filed no brief as appellee therein. So, the decision of Velasco's appeal contained these statements:

"The respondent did not appeal. It filed no brief nor memorandum. We are thus spared the necessity of going over its defenses, and of discussing the possible issue^[1] of the complainants's right to appeal for a higher punishment upon the offender, where the latter chose not to challenge the disciplinary order."

However, our attention was timely called to Manila Electric's pending appeal (L-13992) and we immediately suspended, by our resolution of June 22, 1960, the effects of the aforesaid decision of May 1960. Such decision, it will be recalled, substantially said: "no question about Manila Electric's violation, since it did not appeal, and the only issue is the adequacy of the penalty;" and then it held: in view of the circumstances, the penalty should be increased to P1,000.00.

Now, as stated, Manila Electric appealed. Hence we must now decide the question whether there was such violation, plus the incidental defense of prescription.

The charge against Manila Electric is that it constructed an electrical sub-station at the corner of South 6 and South D Streets of Quezon City, without having previously obtained the approval of the Public Service Commission.

Admitting the fact of construction without permit, the Manila Electric claims here it was unnecessary for her to ask for such permission, because Republic Act No. 150, effective June 14, 1947, giving it authority to construct electric substations, did not mention any requisite permit from the Public Service Commission. (The section of the law is quoted in the margin.) This point was raised before the Commission, which Body adequately resolved it in these words and phrases:

"We find nothing in Republic Act No. 150 which may be construed as repealing Section 20 (b) of the Public Service Act which requires an electric plant operator to obtain the authority of this Commission before making new installations or additions to its service. The provision of Republic Act No. 150 cited by respondent is not incompatible with Section 20 (b) of Commonwealth Act No. 146 which provides that respondent should secure the authority of this Commission to install additions to its system, such as electric generating equipment and sub-stations. The respondent should make the additions required in Republic Act No. 150 in accordance with Section 20 (b) of the Public Service Law. Republic Act No. 150 cannot be interpreted as granting authority to respondent to install indiscriminately any additions to its system. Such additions may be unnecessary to the rendition of an adequate and satisfactory service and may have the effect of increasing or preventing the reduction of respondent's rates of charges for its service. The approval of this Commission of additions to the systems of electric plant operators is essential to the determination and authorization of just and reasonable rates. In the exercise of its regulatory authority, it is the function of this Commission to inquire into the necessity of any addition to respondent's system and disapprove it if the necessity for such addition is not established in order not to burden the customers of respondent with unreasonably excessive rates. * * * Furthermore, construction of the substation in question was started in September 1953 and was finished in the following November. It was therefore constructed after the expiration of the period of five years provided for in Republic Act No. 150, which was approved on June 14, 1947. Therefore, assuming for the sake of argument, that applicant had the authority under Republic Act No. 150 to make any addition to its system within five (5) years from the approval of said Act on June 14, 1947, the authority expired on June 14, 1952, the end of the five year period provided for therein. * * *".

Appellant next contends that the sub-station in question was nothing but an assemblage of transformers and, therefore, no permission was needed to build it. Again, this argument was presented to the Commission, which dismissed the contention. After explaining what is regarded as a sub-station, the Commission said, "it appears that a substation is characterized by its size or complexity. The size of the substation which is the subject matter of this complaint is 10,000/12,500 KVA. It incorporates one or more buses, several circuit breakers and is the sole receiving point of electric energy in bulk from two supply circuits or feeders. Compared to a simple pole-mounted transformer, the substation at the corner of South 6 and South D Streets is of such size or complexity that it should be classified as a substation. Taking into consideration the size or complexity of a substation, the investment involved in its construction may affect the rates to be charged by respondent. The safety or efficiency of an equipment of the size or complexity of a substation should be looked into prior to its construction. A sub-station therefore should be considered as a unit or a facility or an addition to respondent's service within the meaning of Commonwealth Act No. 146, as amended."

On this partly factual and partly technical issue, we fail to discover in the record sufficient data to overrule the Commission. Indeed, we note that Manila Electric itself admitted the structure to be a sub-station when it included it in its petition of March 28, 1955 (Case No. 86354) seeking approval of new sub-stations in Manila and Quezon City.

On the question of prescription, it is enough to indicate that, at the time of the hearing, the sub-station was still standing at the street corner specified by complainant.

If, as explained, its construction was an offense, it constituted a continuous offense against which the defense of prescription did not begin to run. (22 Corpus Juris Secundum, Criminal Law, sec. 277.)[2]

Wherefore, the appealed decision, in so far as it declares the Manila Electric guilty, is affirmed. But it is modified as to the penalty imposed (G. R. No. L-14035) : the fine is raised to P1,000.00. The suspension by resolution of June 22, 1960 is hereby lifted.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Gutierrez David, Paredes, and Dizon,

JJ., concur.

[1] We have no opinion on the subject, at the moment.

[2] Arches vs. Bellosillo, 81 Phil., 190; 46 Off. Gaz., 71.

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