



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

MANILA ELECTRIC COMPANY,
 Petitioner,

G.R. No. 195145

Present:

CARPIO, *J.*, Chairperson,
 BRION,
 DEL CASTILLO,
 MENDOZA, and
 LEONEN, *JJ.*

- versus -

Promulgated:

**SPOUSES SULPICIO and PATRICIA
 RAMOS,**
 Respondents.

10 FEB 2016

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DECISION

BRION, *J.*:

We resolve the petition for review on *certiorari*¹ assailing the July 30, 2010 decision² of the Court of Appeals (*CA*) in CA-G.R. CV No. 87843 entitled “*Spouses Sulpicio and Patricia Ramos v. Manila Electric Company*,” that affirmed the Regional Trial Court’s (*RTC*) August 22, 2006 decision³ in Civil Case No. 99-95975.

The August 22, 2006 *RTC* decision ordered the Manila Electric Company (*MERALCO*) to restore the electric power connection of Spouses Sulpicio and Patricia Ramos (*respondents*) and awarded them ₱2,000,000.00, with legal interest, in total damages.

¹ Petition for Review on *Certiorari*, *rollo*, pp. 8-29.
² Penned by Associate Justice Mario V. Lopez and concurred in by Associate Justices Magdangal M. De Leon and Manuel M. Barrios, *id.* at 36-50.
³ Penned by Presiding Judge Placido C. Marquez, *id.* at 123-144.

The Factual Antecedents

MERALCO is a private corporation engaged in the business of selling and distributing electricity to its customers in Metro Manila and other franchise areas. The respondents are registered customers of MERALCO under Service Identification Number (*SIN*) 409076401.

MERALCO entered into a contract of service with the respondents agreeing to supply the latter with electric power in their residence at 2760-B Molave St., Manuguit, Tondo, Manila. To measure the respondents' electric consumption, it installed the electric meter with serial number 330ZN43953 outside the front wall of the property occupied by Patricia's brother, Isidoro Sales, and his wife, Nieves Sales (*Nieves*), located beside the respondents' house.

On November 5, 1999, MERALCO's service inspector inspected the respondents' electrical facilities and found an outside connection attached to their electric meter. The service inspector traced the connection, an illegal one, to the residence and appliances of Nieves. Nieves was the only one present during the inspection and she was the one who signed the Metering Facilities Inspection Report.

Due to the discovery of the illegal connection, the service inspector disconnected the respondents' electric services on the same day. The inspection and disconnection were done *without* the knowledge of the respondents as they were not at home and their house was closed at the time.

The respondents denied that they had been using an illegal electrical connection and they requested MERALCO to immediately reconnect their electric services. Despite the respondents' request, MERALCO instead demanded from them the payment of ₱179,231.70 as differential billing.

On December 20, 1999, the respondents filed a **complaint for breach of contract with preliminary mandatory injunction and damages** against MERALCO before the RTC, Branch 40, City of Manila. They prayed for the immediate reconnection of their electric service and the award of actual, moral, and exemplary damages, attorney's fees, and litigation expenses.

In a decision dated August 22, 2006, the RTC ordered MERALCO to reconnect the respondents' electric service and awarded damages as follows:

WHEREFORE, Judgment is rendered directing defendant MERALCO to permanently reconnect immediately the plaintiff's electric services, and for said defendant to pay the following:

1. ₱100,000.00 as actual or compensatory damages;
2. ₱1,500,000.00 as moral damages;

3. ₱300,000.00 as exemplary damages;
4. ₱100,000.00 as attorney's fees; and,
5. Costs of suit;

with legal interest on the total damages of ₱2,000,000.00 from the date of this Judgment until fully paid.

SO ORDERED.⁴

MERALCO appealed the RTC's decision to the CA.

In its assailed July 30, 2010 decision,⁵ the CA denied the appeal for lack of merit and affirmed the RTC's order of reconnection and award for payment of damages. The appellate court held that MERALCO failed to comply not only with its own contract of service, but also with the requirements under Sections 4 and 6 of Republic Act No. 7832, or the *Anti-Electricity and Electric Transmission Lines/Materials Pilferage Act of 1994* (R.A. 7832), when it resorted to the immediate disconnection of the respondents' electric service without due notice. It also ruled that the respondents were not liable for the differential billing as it had not been established that they knew or consented to the illegal connection or even benefited from it.

MERALCO moved for the reconsideration of the decision, but the CA denied its motion in a resolution⁶ dated **January 3, 2011**. The present petition for review on *certiorari*⁷ was filed with this Court on March 4, 2011, as a consequence.

The Petition

MERALCO argues that under R.A. 7832, it had the right and authority to immediately disconnect the electric service of the respondents after they were caught *in flagrante delicto* using a tampered electrical installation.

MERALCO also claims that by virtue of their contract of service, the respondents are liable to pay the differential billing regardless of whether the latter benefited from the illegal electric service or not. It adds that this is true even if the respondents did not personally tamper with the electrical facilities.

Finally, MERALCO contends that there is no basis for the award of damages as the disconnection of the respondents' electric service was done in good faith and in the lawful exercise of its rights as a public utility company.

⁴ *Id.* at 144.

⁵ *Supra* note 2.

⁶ *Rollo*, pp. 63-66.

⁷ *Supra* note 1.

The Respondents' Comment

In their comment⁸ of June 29, 2011, the respondents pray for the denial of the present petition for lack of merit. They argue that the discovery of an outside connection attached to their electric meter does not give MERALCO the right to automatically disconnect their electric service as the law provides certain mandatory requirements that should be observed before a disconnection could be effected. They claim that MERALCO failed to comply with these statutory requirements.

Also, the respondents contend that MERALCO breached its contractual obligations when its service inspector immediately disconnected their electric service without notice. They claim that this breach of contract, coupled with MERALCO's failure to observe the requirements under R.A. 7832, entitled them to damages which were sufficiently established with evidence and were rightfully awarded by the RTC and affirmed by the CA.

Lastly, the respondents argue that they are not liable to MERALCO for the differential billing as they were not the ones who illegally consumed the unbilled electricity through the illegal connection.

The Court's Ruling

We DENY the petition for review on *certiorari* as we find no reversible error committed by the CA in issuing its assailed decision.

The core issue in this case is whether MERALCO had the right to immediately disconnect the electric service of the respondents upon discovery of an outside connection attached to their electric meter.

The distribution of electricity is a basic necessity that is imbued with public interest. Its provider is considered as a public utility subject to the strict regulation by the State in the exercise of its police power. **Failure to comply with these regulations gives rise to the presumption of bad faith or abuse of right.**⁹

Nevertheless, the State also recognizes that electricity is the property of the service provider. R.A. 7832 was enacted by Congress to afford electric service providers multiple remedies to protect themselves from electricity pilferage. These remedies include the **immediate disconnection of the electric service** of an erring customer, criminal prosecution, and the imposition of surcharges.¹⁰ However, the service provider must avail of any or all of these remedies *within legal bounds*, in strict compliance with the requirements and/or conditions set forth by law.

⁸ Rollo, pp. 223-240.

⁹ *Samar II Electric Cooperative, Inc. v. Quijano*, G.R. No. 144474, April 27, 2007, 522 SCRA 364, 375, 376.

¹⁰ *Id.* at 376-377.

Section 4(a) of R.A. 7832 provides that the discovery of an outside connection attached on the electric meter shall constitute as *prima facie* evidence of illegal use of electricity by the person who *benefits* from the illegal use *if* the discovery is **personally witnessed and attested to by an officer of the law or a duly authorized representative of the Energy Regulatory Board (ERB)**. With the presence of such *prima facie* evidence, the electric service provider is within its rights to immediately disconnect the electric service of the consumer *after* due notice.

This Court has repeatedly stressed the significance of the presence of an authorized government representative during an inspection of electric facilities, *viz.*:

The presence of government agents who may authorize immediate disconnections go into the essence of due process. Indeed, we cannot allow respondent to act virtually as prosecutor and judge in imposing the penalty of disconnection due to alleged meter tampering. That would not sit well in a democratic country. After all, Meralco is a monopoly that derives its power from the government. Clothing it with unilateral authority to disconnect would be equivalent to giving it a license to tyrannize its hapless customers.¹¹ (emphasis supplied)

Additionally, Section 6 of R.A. 7832 affords a private electric utility the right and authority to immediately disconnect the electric service of a consumer who has been caught *in flagrante delicto* doing any of the acts covered by Section 4(a). However, the law clearly states that the disconnection may only be done *after* serving a written notice or warning to the consumer.

To reiterate, R.A. 7832 has two requisites for an electric service provider to be authorized to disconnect its customer's electric service on the basis of alleged electricity pilferage: *first*, an officer of the law or an authorized ERB representative must be present during the inspection of the electric facilities; and *second*, even if there is *prima facie* evidence of illegal use of electricity and the customer is caught *in flagrante delicto* committing the acts under Section 4(a), the customer must still be given due notice prior to the disconnection.¹²

In its defense, MERALCO insists that it observed due process when its service inspector disconnected the respondents' electric service, *viz.*:

Under the present situation, there is no doubt that due process, as required by R.A. 7832, was observed [when] the petitioner discontinued the electric supply of respondent: there was an inspection conducted in the premises of respondent with the consent of their authorized representative; it was discovered during the said inspection that private respondents were using outside connection; the nature of the violation was explained to private respondents' representative; the inspection and discovery was personally

¹¹ *Quisumbing v. Manila Electric Company*, G.R. No. 142943, April 3, 2002, 380 SCRA 195, 208.

¹² *Manila Electric Company v. Navarro-Domingo*, G.R. No. 161893, June 27, 2006, 493 SCRA 363, 371.

witnessed and attested to by private respondents' representative; **private respondents failed and refused to pay the differential billing amounting to P179,231.70 before their electric service was disconnected.**¹³ (emphasis supplied)

After a thorough examination of the records of the case, we find no proof that MERALCO complied with these two requirements under R.A. 7832. MERALCO never even alleged in its submissions that an ERB representative or an officer of the law was present during the inspection of the respondents' electric meter. Also, it did not claim that the respondents were ever notified beforehand of the impending disconnection of their electric service.

In view of MERALCO's failure to comply with the strict requirements under Sections 4 and 6 of R. A. No. 7832, **we hold that MERALCO had no authority to immediately disconnect the respondents' electric service.** As a result, the immediate disconnection of the respondents' electric service is **presumed to be in bad faith.**

We point out, too, that MERALCO's allegation that the respondents refused to pay the differential billing *before* the disconnection of their electric service is an obvious falsity. MERALCO never disputed the fact that the respondents' electric service was disconnected on November 5, 1999 – the same day as when the electric meter was inspected. Also, MERALCO's demand letter for payment of the differential billing is dated December 4, 1999. Thus, there is no truth to the statement that the respondents first failed to pay the differential billing and only then was their electric service disconnected.

The disconnection of respondents' electric service is not supported by MERALCO's own Terms and Conditions of Service.

In addition, we observe that MERALCO also failed to follow its own procedure for the discontinuance of service under its contract of service with the respondents. We quote in this regard the relevant terms of service:

DISCONTINUANCE OF SERVICE:

The Company reserves the right to discontinue service in case the customer is in arrears in the payment of bills in those cases where the meter stopped or failed to register the correct amount of energy consumed, or failure to comply with any of these terms and conditions or in case of or to prevent fraud upon the Company. **Before disconnection is made in 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.** In case of disconnection, the

¹³ See Petition for Review on *Certiorari*, rollo, p. 22.

provisions of Revised Order No. 1 of the former Public Service Commission (now ERC) shall be observed. Any such suspension of service shall not terminate the contract between the Company and the customer.¹⁴ (emphasis supplied)

There is nothing in its contract of service that gives MERALCO the authority to immediately disconnect a customer's electric connection. MERALCO's contractual right to disconnect electric service arises *only* after the customer has been notified of his adjusted bill and has been afforded the opportunity to pay the differential billing.

In this case, the disconnection of the respondents' electric service happened on November 5, 1999, while the demand for the payment of differential billing was made through a letter dated December 4, 1999. **Thus, we hold that MERALCO breached its contract of service with the respondents as it disconnected the latter's electric service *before* they were ever notified of the differential billing.**

Differential billing

Section 6 of R.A. 7832 defines differential billing as "*the amount to be charged to the person concerned for the unbilled electricity illegally consumed by him.*" Clearly, the law provides that the person who *actually consumed* the electricity illegally shall be liable for the differential billing. It does not *ipso facto* make liable for payment of the differential billing the registered customer whose electrical facilities had been tampered with and utilized for the illegal use of electricity.

In this case, as the *prima facie* presumption afforded by Section 4 of R.A. 7832 does not apply, it falls upon MERALCO to first prove that the respondents had actually installed the outside connection attached on their electric meter and that they had benefited from the electricity consumed through the outside connection before it could hold them liable for the differential billing.

The records show that MERALCO presented no proof that it ever caught the respondents, or anyone acting in the respondents' behalf, in the act of tampering with their electric meter. As the CA correctly held, the respondents could not have been caught *in flagrante delicto* committing the tampering since they were not present during the inspection of the electric meter, nor were any of their representatives at hand.¹⁵ Moreover, the presence of an outside connection attached to the electric meter operates only as a *prima facie* evidence of electricity pilferage under R.A. 7832; it is not enough to declare the respondents *in flagrante delicto* tampering with the electric meter.¹⁶ In fact, MERALCO itself admitted in its submissions that

¹⁴ See Petition for Review on *Certiorari, rollo*, p. 16.

¹⁵ *Go v. Leyte II Electric Cooperative, Inc.*, G.R. No. 176909, February 18, 2008, 546 SCRA 187, 195.

¹⁶ *Manila Electric Company v. Chua*, G.R. No. 160422, July 5, 2010, 623 SCRA 81, 98.

Nieves was the illegal user of the outside connection attached to the respondents' electric meter.¹⁷

On this point, MERALCO argues that Nieves was an authorized representative of the respondents. However, the records are bereft of any sufficient proof to support this claim. The fact that she is an occupant of the premises where the electric meter was installed does not make her the respondents' representative considering that the unit occupied by the respondents is separate and distinct from the one occupied by Nieves and her family. Similarly, the fact that Nieves was able to show the respondents' latest electric bill does not make her the latter's authorized representative.

While this Court recognizes the right of MERALCO as a public utility to collect system losses, the courts cannot and will not blindly grant a public utility's claim for differential billing if there is no sufficient evidence to prove entitlement.¹⁸ **As MERALCO failed to sufficiently prove its claim for payment of the differential billing, we rule that the respondents cannot be held liable for the billed amount.**

On the issue of damages

With MERALCO in bad faith for its failure to follow the strict requirements under R.A. 7832 in the disconnection of the respondents' electric service, we agree with the CA that the award of damages is in order. However, we deem it proper to modify the award in accordance with prevailing jurisprudence.

First, actual damages pertain to such injuries or losses that are actually sustained and are susceptible of measurement. They are intended not to enrich the injured party but to put him in the position in which he was in before he was injured.¹⁹

In *Viron Transportation Co., Inc. v. Delos Santos*,²⁰ we explained that in order to recover actual damages, there must be pleading and proof of the damages suffered, *viz.*:

Actual damages, to be recoverable, must not only be capable of proof, but must actually be proved with a reasonable degree of certainty. Courts cannot simply rely on speculation, conjecture or guesswork in determining the fact and amount of damages. **To justify an award of actual damages, there must be competent proof of the actual amount of loss, credence can be given only to claims which are duly supported by receipts.** (emphasis supplied)

¹⁷ See MERALCO'S Answer with Compulsory Counterclaim, *rollo*, p. 92.

¹⁸ *Manila Electric Company v. Wilcon Builders Supply, Inc.*, G.R. No. 171534, June 30, 2008, 556 SCRA 742, 756, 757.

¹⁹ *Oceaneering Contractors (PHILS), Inc. v. Barretto*, G.R. No. 184215, February 9, 2011, 642 SCRA 596, 605, 606.

²⁰ G.R. No. 138296, November 22, 2000, 345 SCRA 509, 519.

In this case, Patricia stated that her family's food expenses doubled after MERALCO disconnected their electric services as they could no longer cook at home. We note, however, that there is no sufficient proof presented to show the actual food expenses that the respondents incurred. Nevertheless, Patricia also testified that they were forced to move to a new residence after living without electricity for eight (8) months at their home in Tondo, Manila. They proved this allegation through the presentation of a contract of lease and receipts for payment of monthly rentals for 42 months amounting to ₱210,000.00. Thus, **we find it proper to increase the award of actual damages from ₱100,000.00 to ₱210,000.00.**

Second, moral damages are designed to compensate and alleviate the physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar harm unjustly caused to a person.²¹ They may be properly awarded to persons who have been unjustly deprived of property without due process of law.²²

In *Regala v. Carin*,²³ we discussed the requisites for the award of moral damages, *viz*:

In fine, an award of moral damages calls for the presentation of 1) evidence of besmirched reputation or physical, mental or psychological suffering sustained by the claimant; 2) a culpable act or omission factually established; 3) proof that the wrongful act or omission of the defendant is the proximate cause of the damages sustained by the claimant; and 4) the proof that the act is predicated on any of the instances expressed or envisioned by Article 2219 and Article 2220 of the Civil Code.

Applied to this case, after due consideration of the manner of disconnection of the respondents' electric service and the length of time that the respondents had to endure without electricity, we find the award of moral damages proper. Aside from having to spend eight (8) months in the dark at their own residence, Patricia testified that they suffered extreme social humiliation, embarrassment, and serious anxiety as they were subjected to gossip in their neighborhood of stealing electricity through the use of an illegal connection. The damage to the respondents' reputation and social standing was aggravated by their decision to move to a new residence following the absolute refusal of MERALCO to restore their electric services.

However, we find the award of ₱1,500,000.00 in moral damages to be excessive. Moral damages are not intended to enrich the complainant as a penalty for the defendant. It is awarded as a means to ease the moral suffering the complainant suffered due to the defendant's culpable action.²⁴ While prevailing jurisprudence deems it appropriate to award ₱100,000.00

²¹ *Regala v. Carin*, G.R. No. 188715, April 6, 2011, 647 SCRA 419, 426.

²² CIVIL CODE, Article 32.

²³ *Supra* note 21, at 427-428.

²⁴ *Manila Electric Company v. Jose*, G.R. No. 152769, February 14, 2007, 515 SCRA 669, 680.

in moral damages in cases where MERALCO wrongfully disconnected electric service,²⁵ we hold that such amount is not commensurate with the injury suffered by the respondents. Thus, in view of the specific circumstances present in this case, **we reduce the award of moral damages from ₱1,500,000.00 to ₱300,000.00.**

Third, exemplary or corrective damages are imposed by way of example or correction for the public good, in addition to moral, temperate, liquidated, or compensatory damages. The award of exemplary damages is allowed by law as a warning to the public and as a deterrent against the repetition of socially deleterious actions.²⁶

In numerous cases,²⁷ this Court found that MERALCO failed to comply with the requirements under R.A. 7832 before a disconnection of a customer's electric service could be effected. In these cases, we aptly awarded exemplary damages against MERALCO to serve as a warning against repeating the same actions.

In this case, MERALCO totally failed to comply with the two requirements under R.A. 7832 before disconnecting the respondents' electric service. While MERALCO insists that R.A. 7832 gives it the right to disconnect the respondents' electric service, nothing in the records indicates that it attempted to comply with the statutory requirements before effecting the disconnection.

Under these circumstances, we find that the previous awards against MERALCO have not served their purpose as a means to prevent the repetition of the same damaging actions that it has committed in the past. Therefore, **we increase the award of exemplary damages from ₱300,000.00 to ₱500,000.00** in the hope that this will persuade MERALCO to be more prudent and responsible in its observance of the requirements under the law in disconnecting a customer's electrical supply.

Lastly, in view of the award of exemplary damages, we find the award of attorney's fees proper, in accordance with Article 2208(1) of the Civil Code. **We find the CA's award of attorney's fees in the amount of ₱100,000.00 just and reasonable under the circumstances.**

WHEREFORE, the petition is **DENIED**. The decision dated July 30, 2010 and resolution dated January 3, 2011 of the Court of Appeals in CA-G.R. CV No. 87843 are **AFFIRMED** with the following modifications: MERALCO is ordered to pay respondents Spouses Sulpicio and Patricia Ramos ₱210,000.00 as actual

²⁵ *Supra* note 17.

²⁶ *Tan v. OMC Carriers, Inc.*, G.R. No. 190521, January 12, 2011, 639 SCRA 471, 485.

²⁷ *Quisumbing v. Manila Electric Company*, *supra* note 11; *Manila Electric Company v. Santiago*, G.R. No. 170482, September 4, 2009, 598 SCRA 315; *Manila Electric Company v. Castillo*, G.R. No. 182976, January 14, 2013, 688 SCRA 455; *Manila Electric Company v. Chua*, *supra* note 16; *Manila Electric Company v. Hsing Nan Tannery*, G.R. No. 178913, February 12, 2009, 578 SCRA 640; *Manila Electric Company v. Navarro-Domingo*, *supra* note 12.

damages, ₱300,000.00 as moral damages, ₱500,000.00 as exemplary damages, and ₱100,000.00 as attorneys fees. Costs against Manila Electric Company.

SO ORDERED.


ARTURO D. BRION
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


MARIANO C. DEL CASTILLO
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

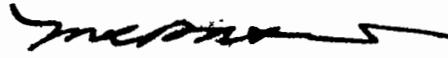
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P. A. SERENO**

Chief Justice