



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**NATIONAL
CORPORATION,**

POWER

G.R. No. 218378

Petitioner,

Present:

-versus-

PERLAS-BERNABE, S.A.J.,
Chairperson,
 LAZARO-JAVIER,
 M. LOPEZ,
 ROSARIO, and
 LOPEZ, J. Y.,* JJ.

**BENGUET
COOPERATIVE, INC.,**

ELECTRIC

Promulgated:

Respondent.

JUN 14 2021

X-----X

RESOLUTION

M. LOPEZ, J.:

The principle of unjust enrichment under Article 22 of the Civil Code is not a catch-all provision that can be conveniently invoked when a party has suffered a loss. This is especially true when a contract exists between the parties.

This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assails the Decision² dated August 29, 2014 and Resolution³ dated May 22, 2015 of the Court of Appeals (CA) in CA-G.R. CV No. 96352, affirming the Decision⁴ dated September 15, 2010 and Resolution⁵ dated November 10,

* Designated additional member per Special Order No. 2822 dated April 7, 2021.

¹ *Rollo*, pp 17-37.

² *Id.* at 43-61. Penned by Associate Justice Rodil V. Zalameda (now a member of the Court), with the concurrence of Associate Justices Ramon M. Bato, Jr. and Maria Elisa Sempio Diy.

³ *Id.* at 62-63.

⁴ *Id.* at 180-187. Penned by Presiding Judge Benigno M. Galacagac.

⁵ *Id.* at 188-191

2010 of the Regional Trial Court of La Trinidad, Benguet, Branch 63 (RTC) in Civil Case No. 04-CV-2055 which declared the underbilling of National Power Corporation (NPC) against Benguet Electric Cooperative, Inc. (BENECO) for the period covering May 2000 to February 2004, as illegal, unjust, and unenforceable.

ANTECEDENTS

NPC is a government-owned and controlled corporation that supplies power to BENECO under a franchise agreement. In turn, BENECO distributes power to all its members and consumers in Baguio City and Benguet Province.⁶

On January 1, 1998, NPC and BENECO entered into a Contract of Sale of Electricity.⁷ Subsequently, the parties executed a Transition Contract for the Supply of Electricity (Transition Contract) whereby NPC will supply electric power and energy to BENECO at multiple points of delivery, including the Irisan Substation.⁸ In 1999, the NPC's Metering Services Group installed the metering system in Irisan Substation and conducted several tests to determine the multiplier. After the tests, the NPC set the Current Transformer Ratio (CTR) at 75/5, which fixed the multiplier at 5,196.31.⁹ The Irisan Substation was energized in March 2000.¹⁰

From May 2000 to February 2004, the NPC maintained the CTR at 75/5 and billed BENECO using 5,196.31 as the multiplier.¹¹ NPC granted BENECO a Prompt Payment Discount (PPD) every month as long as BENECO's account was fully paid and updated.¹²

In February 2004, BENECO's employee, Engineer Lawrence Umaming (Umaming), studied BENECO's operations and discovered its low systems losses. Because of this, Engineer Umaming called the attention of the National Transmission Corporation (TRANSCO), the company which took over NPC's transmission functions in 2004. TRANSCO conducted tests on BENECO's billing meter and noticed that the CTR was set at 75/5 instead of 150/5, which means that NPC had been billing BENECO at half the correct amount of electricity delivered to it.¹³

Consequently, in a demand letter¹⁴ dated May 13, 2004, NPC informed BENECO of its underbilling from May 2000 to February 2004, amounting to ₱157,743,314.43 and requested BENECO to pay the amount. BENECO

⁶ Id. at 200.

⁷ Id. at 25.

⁸ Id.

⁹ Id. at 201.

¹⁰ Id.

¹¹ Id. at 203.

¹² Id. at 44.

¹³ Id. at 44-46.

¹⁴ Id. at 79-80.

refused to pay the underbilling and argued that it resulted from NPC's failure to discover the error in the metering device. In consequence, NPC revoked BENEKO's PPD privilege on June 23, 2004.¹⁵ NPC also billed BENEKO an additional amount of ₱7,870,456.14, representing the PPD and the interest charges from April 2004 to July 2004. Too, NPC notified¹⁶ BENEKO that it will issue a disconnection order if it does not pay the balance.¹⁷ For these reasons, BENEKO filed a Complaint¹⁸ for injunction, damages, and other relief on September 30, 2004, before the RTC.¹⁹

BENEKO inveighed that it is not liable for the underbilling amounting to ₱157,743,314.43. Under Section 25 of the Transition Contract, NPC is deemed to have waived its claims on any billing not corrected within ninety (90) days from BENEKO's receipt of the erroneous billing. Thus, BENEKO is still entitled to a 3% PPD. Also, NPC's failure to discover its own mistake for almost four years constitutes gross inexcusable negligence.²⁰

For its part, NPC asserted that the use of an "inapplicable CTR" in BENEKO's metering device is not covered by Section 25. The use of the 75/5 CTR will not result in a wrong reading since the CTR only scales down the actual current flowing in the substation. Neither can it be considered as an arithmetical mistake or omission, or error due to an inaccurate meter. NPC even faulted BENEKO for calling its attention only after the lapse of (4) years.²¹

During the trial, it was established that: (1) the determination of the billing multiplier is the sole responsibility of the NPC; (2) the NPC conducted several tests on the billing meter system to determine the correct multiplier before the substation was finally energized in 2000; (3) after conducting meter tests, NPC prepared Billing Meter Test Reports indicating the multiplier; (4) NPC undertook monthly readings of the meter for purposes of monthly billing; (5) BENEKO has no access to the billing meter system of NPC; (6) NPC consistently indicated the multiplier of 5,196.31 in their Meter Reading Reports and monthly bills; and (7) NPC bills BENEKO every month.²²

On September 15, 2010, the RTC rendered a Decision²³ in favor of BENEKO. Applying *Panay Electric Co., Inc. v. Court of Appeals (Panay Electric)*²⁴ and *Ridjo Tape & Chemical Corp. v. Court of Appeals (Ridjo Tape)*,²⁵ the RTC held that BENEKO cannot be faulted for the wrong multiplier. NPC's failure to determine the error is a case of negligence, and as

¹⁵ See *id.* at 83.

¹⁶ See *id.* at 89.

¹⁷ *Id.* at 181.

¹⁸ *Id.* at 67-78.

¹⁹ *Id.*

²⁰ *Id.* at 70-72.

²¹ *Id.* at 95-96.

²² *Id.* at 182.

²³ *Id.* at 180-187.

²⁴ 256 Phil. 260 (1989).

²⁵ 350 Phil. 184 (1998).

such, it must bear the consequential losses.²⁶ Concerning BENECO's entitlement to a PPD, the RTC agreed with BENECO that the underbilling is separate from the current monthly billings. Since BENECO has been paying its current monthly bills promptly, it is entitled to a PPD.²⁷ The decretal portion of the Decision reads:

WHEREFORE, judgment is hereby rendered in this case in favor of the plaintiff and against the defendants as follows:

1. Declaring the underbilling and related billings of NPC to Beneco as illegal, unjust, and unenforceable against the Beneco;
2. Enjoining permanently the defendants and all persons acting on their behalf or their orders from disconnecting Beneco's electric supply, and enjoining defendants to reinstate the 3% Prompt Payment Discount on Beneco's monthly bills from April 2004 and onward;
3. Ordering defendant NPC to pay Beneco attorney's fees of ₱1,000,000.00;
4. Dismissing all other claims and counterclaims for lack of merit.
5. Cost against defendant NPC.

SO ORDERED.²⁸

NPC moved for reconsideration, but the RTC denied the motion in a November 10, 2010 Resolution.²⁹

Dissatisfied by the RTC's ruling, NPC filed an appeal with the CA and raised the issue of whether the NPC can compel BENECO to pay the underbilling.³⁰ Acting on the appeal, the CA upheld the RTC's finding that NPC's gross negligence was the proximate cause of the underbilling. NPC could have easily determined the need to change the CTR setting with all its technologically advanced resources. On the other hand, BENECO has no way of determining the wrong CTR setting in the Irisan Substation based on its unusually low systems losses. Remarkably, BENECO's systems losses, as shown on its Monthly Financial Statistical Report, pertain to its entire operation, not only the Irisan Substation. More so, BENECO had no participation in installing NAPOCOR's metering system, determining the billing multiplier, and conducting billing meter tests. The RTC found no preponderant evidence showing that BENECO was equally at fault and ruled that NPC was solely responsible for the underbilling. Thus, NPC should bear the loss.³¹ The CA dismissed NPC's appeal and ruled as follows:

²⁶ *Rollo*, pp. 182-186.

²⁷ *Id.* at 186.

²⁸ *Id.* at 186-187.

²⁹ *Id.* at 188-191.

³⁰ *Id.* at 50-51.

³¹ *Id.* at 52-53.

WHEREFORE, premises considered, the instant Appeal is **DENIED**. The assailed Decision dated 15 September 2010 and Resolution dated 10 November 2010 issued by Branch 63, Regional Trial Court of La Trinidad, Benguet are hereby **AFFIRMED** except the award of attorney's fees in the amount of one million (₱1,000,000.00) pesos which is hereby **DELETED** for lack of factual and legal basis.

SO ORDERED.³² (Emphases in the original.)

NPC filed a motion for reconsideration. However, the CA denied the motion in a Resolution³³ dated May 22, 2015.

Hence, this recourse.

NPC insists that BENECO is liable for the underbilling because it consumed the electricity from NPC but only paid half of the actual price. Otherwise, BENECO will be unjustly enriched.³⁴ Further, *Panay Electric*,³⁵ *Ridjo Tape*,³⁶ and *Manila Electric Company (MERALCO) v. Spouses Chua (Meralco)*³⁷ cannot justify BENECO's non-payment of the underbilling since BENECO is not similarly situated as the end-users in these cases. BENECO has the technical expertise to determine the use of a defective CTR in the Irisan Substation.³⁸ Lastly, NPC has the right to revoke the PPD because it is a mere privilege. BENECO was rightfully disqualified from enjoying the PPD privilege given its unpaid underbilling.³⁹

ISSUES

NPC raised the issues of whether: (a) BENECO's non-payment of the underbilling constitutes unjust enrichment; (b) *Panay Electric*,⁴⁰ *Ridjo Tape*,⁴¹ and *Meralco*⁴² are applicable in the case at bar; and (c) BENECO is entitled to a 3% PPD.

RULING

The petition is partly meritorious.

BENECO's liability for the underbilling is based on contract, not the principle of unjust enrichment.

³² Id. at 60.

³³ Id. at 62-63.

³⁴ Id. at 25-27.

³⁵ *Supra* note 24.

³⁶ *Supra* note 25.

³⁷ 637 Phil. 80 (2010).

³⁸ *Rollo*, pp. 27-29.

³⁹ Id. at 31-33.

⁴⁰ *Supra* note 24.

⁴¹ *Supra* note 25.

⁴² *Supra* note 37.

At the onset, the CA correctly ruled that BENEKO had no participation in NPC's use of the wrong CTR setting, and therefore, NPC's loss is the result of its negligence. Nevertheless, BENEKO is liable for the underbilling representing the power bills corrected within the 90-day period based on Section 25 of the Transition Contract, not the principle of unjust enrichment.

Unjust enrichment exists when a person unfairly retains a benefit, money, or property against the fundamental principles of justice, equity, and good conscience.⁴³ The principle against unjust enrichment is embodied in Article 22⁴⁴ of the Civil Code, which provides that a person who acquires or comes into possession of something at the expense of another without just or legal ground must return it. To be applicable, Article 22 requires that: (a) a person is benefited without a valid basis or justification, and (b) such benefit is derived at another's expense or damage.⁴⁵

In *University of the Philippines v. Philab Industries Inc.*, (G.R. No. 152411),⁴⁶ the Court's discussion of the principle of unjust enrichment and the elements required for its application is instructive:

Unjust enrichment claims do not lie simply because one party benefits from the efforts or obligations of others, but instead **it must be shown that a party was unjustly enriched in the sense that the term unjustly could mean illegally or unlawfully.**

Moreover, to substantiate a claim for unjust enrichment, the **claimant must unequivocally prove that another party knowingly received something of value to which he was *not entitled* and that the state of affairs are such that it would be unjust for the person to keep the benefit.** x x x.

x x x x

In order that *accion in rem verso* may prosper, the essential elements must be present: (1) that the defendant has been enriched, (2) that the plaintiff has suffered a loss, **(3) that the enrichment of the defendant is without just or legal ground,** and **(4) that the plaintiff has no other action based on contract, quasi-contract, crime or quasi-delict.**

An *accion in rem verso* is considered merely an auxiliary action, available only when there is no other remedy on contract, quasi-contract, crime, and quasi-delict. **If there is an obtainable action under any other institution of positive law, that action must be resorted to, and the principle of *accion in rem verso* will not lie.**⁴⁷ (Italics in the original, emphases supplied, and citations omitted.)

⁴³ *Reyes v. Lim*, 456 Phil. 1, 14 (2003).

⁴⁴ ART. 22. Every person who[,] through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.

⁴⁵ *Car Cool Phis., Inc. v. Ushio Realty & Dev't. Corp.*, 515 Phil. 376, 384 (2006), citing I J. VITUG, *CIVIL LAW* 30 (2003).

⁴⁶ 482 Phil. 693 (2004).

⁴⁷ *Id.* at 709-711.

Thus, the principle of unjust enrichment does not automatically apply when one party benefits from the efforts or obligations of another. It is necessary to show that the enrichment of one party is without a just or legal ground, and that the plaintiff has no other action against the other party. In other words, there is no unjust enrichment when the person who benefited has a valid claim to such benefit.⁴⁸ Relevantly, the Court ruled in *Shinryo (Phil.) Company, Inc. v. RRN*,⁴⁹ that the principle of unjust enrichment is not applicable because the petitioner's claim is based on contract, *viz.*:

As found by both the CIAC and affirmed by the CA, **petitioner failed to prove that respondent's free use of the manlift was without legal ground based on the provisions of their contract.** Thus, the third requisite, *i.e.*, that the enrichment of respondent is without just or legal ground, is missing. In addition, **petitioner's claim is based on contract**, hence, the fourth requisite — that the plaintiff has no other action based on contract, quasi-contract, crime or quasi-delict — is also absent. **Clearly, the principle of unjust enrichment is not applicable in this case.**⁵⁰ (Emphases supplied.)

Also, the Court succinctly discussed in *National Transmission Corporation v. Misamis Oriental I Electric Cooperative, Inc., (Misamis Oriental)*⁵¹ that the contract between the parties prevails over the principle of unjust enrichment, thus:

The claim that Moresco I was unjustly enriched at the expense of petitioner is equally untenable for a simple reason. Because a contract exists between the parties, the obligations arising therefrom have the **force of law between the parties** and must be complied with in good faith.⁵² (Emphasis supplied and citation omitted.)

Here, NPC and BENECO executed a Contract of Sale of Electricity and a Transition Contract for the Supply of Electricity to govern their rights and obligations in the supply of electric power and energy. Therefore, any action that one may bring against the other shall be based on the provisions of their contract. The principle of unjust enrichment will not apply.

BENECO is liable for underbilled power charges due to the use of a wrong multiplier corrected within 90 days from receipt of the erroneous billings.

Section 25 of the Transition Contract defines BENECO's right to retain a portion of the underbilling and NPC's right to correct billing errors and demand payment for underbilling.

⁴⁸ *Supra* note 45, at 384.

⁴⁹ 648 Phil. 342 (2010).

⁵⁰ *Id.* at 352.

⁵¹ 793 Phil. 704 (2016).

⁵² *id.* at 714.



ADJUSTMENT DUE TO INACCURATE METERS AND ERRONEOUS BILLINGS WITHIN A BILLING PERIOD.

25. In the event that a **billing is found erroneous due to** wrong reading, arithmetical mistakes or **omissions**, **SUPPLIER shall send CUSTOMER a debit/credit memo within ninety (90) days from the date of bill's receipt to correct the error. SUPPLIER shall also be deemed to waive any claim on any billing error if it fails to send notice of such billing error to CUSTOMER within ninety (90) days from billing date.** Provided that if the error is due to an inaccurate meter, said error may be corrected anytime.⁵³ (Emphasis supplied)

In *Misamis Oriental*,⁵⁴ the Transition Contract of the parties contained a similar provision on erroneous billings. In that case, the Court interpreted Section 25 and identified the two categories of errors in billing as **(1) error due to a wrong reading, or an arithmetical mistake or omission, which may be corrected only within ninety (90) days from the date of the customer's receipt of the bill, else, the claim shall be deemed waived;** and (2) error due to an inaccurate meter, which may be corrected any time. The Court upheld the Energy Regulatory Commission (ERC) and the CA's findings that failure to use a metering device with the correct multiplier constitutes an omission under the first category,⁵⁵ thus:

The ERC decided in favor of respondent, and the CA affirmed the judgment.

We find no reversible error in the CA's affirmance of the ERC ruling.

The ERC concluded that Transco failed to provide the correct meter multiplier when it installed the new meter — a clear omission that resulted in an erroneous billing. This finding was affirmed in the CA ruling which we quote in full and with approval:

We hold that the error in the billing due to an application of an incorrect meter is an *omission* within the ambit of the first sentence of Section 25, Annex C to the TSC. x x x.

[x x x x]

The error committed by petitioner Transco was an omission because it failed to use the correct meter device, that is, one with a multiplier of 5,250, notwithstanding its admission in the Meter Test Report that it used the said multiplier. When Transco and Genco computed the billings for respondent MORESCO 1 for the months following the installation of the new meter device, they belatedly discovered that the new device had a multiplier of 3,500 instead of 5,250. This explained the under-billings. We note that when Transco installed the new meter device, it believed that the multiplier of which was 5,250 when, in reality, it was 3,500. The error was caused by Transco's own act of installing a meter device with a multiplier of 3,500 which was different from what it was supposed to install, that is, one with a multiplier of 5,250. Stated differently, Transco's omission consists in

⁵³ *Rollo*, p. 90.

⁵⁴ *Supra* note 51.

⁵⁵ *Supra* at 707

failing to install a device with a 5,250 multiplier. If there was any error in the present case, it was only in Transco's belief that the internal multiplier of the new meter device was 5,250 instead of 3,500. **Considering that a multiplier is an inherent component of every meter device, as Transco expressly so stated, the correct meter device with a multiplier of 5,250 could have been available to it or, if not, within its means to obtain, had it only exercised ordinary diligence.**⁵⁶ (Italic in the original, emphases supplied, and citations omitted.)

Similarly, in this case, the underbilling sought to be collected by NPC arose from NPC's failure to set the CTR at 150/5, which resulted in the use of a wrong multiplier. This constitutes an omission under the first category of billing error of the Transition Contract. **It was established during the trial that the determination of the correct billing multiplier is NPC's sole responsibility.** NPC even conducted several billing meter system tests before it energized BENECO's Irisan Substation. Since then, NPC indicated 5,196.31 as the multiplier in BENECO's monthly bills. NPC's witness, Engineer Edgardo Orenca, confirmed that the meter was accurate, and what was erroneous is the multiplier used.⁵⁷ Additionally, remarks in Billing Meter Test Reports dated August 15, 2000, June 15, 2001, and July 30, 2003, indicate that the meter is accurate.

Thus, NPC can only correct erroneous billings arising from the use of a wrong multiplier within ninety (90) days from BENECO's receipt of the erroneous billings. Here, BENECO received the letter informing it of its underbilling from May 2000 to February 2004 amounting to ₱157,743,314.43 on **May 17, 2004.**⁵⁸ Billings received by BENECO beyond the 90-day period before May 17, 2004, can no longer be corrected, and NPC is deemed to have waived any claim on the billing errors beyond that period. BENECO is only liable for the underbilling on erroneous billings that BENECO received from **February 17, 2004 to May 17, 2004.**

Notably, NPC's demand letter merely provides for the total amount of the underbilling covering May 2000 to February 2004, without reference to the amount of underbilling every month. With this, the Court cannot determine BENECO's liability. It must be emphasized that mathematical computations are factual questions, and the Court is not a trier of facts.⁵⁹

⁵⁶ *Supra* at 712-713.

⁵⁷ See *Rollo*, p. 189.

ATTY. GAYO:

Q x x x in this particular case, the meter was accurate?

A Yes Sir.

Q What was inaccurate was the multiplier used?

A Yes Sir, that's right.

x x x x

⁵⁸ See *id.* at 79.

⁵⁹ See *Hanjin Heavy Industries and Construction Co., Ltd. v. Dynamic Planners and Construction Corp.*,

Hence, the case must be remanded to the RTC for proper determination of the amount of the underbilling.

Panay Electric, Ridjo Tape, and Meralco do not apply.

Panay Electric,⁶⁰ *Ridjo Tape*,⁶¹ and *Meralco*⁶² differ in some factual circumstances and applicable laws from the case at bar. In *Panay Electric* and *Meralco*, the contracts between the parties do not have specific provisions for billing errors. In *Panay Electric*, the Court applied the principle of *estoppel in pais* in ruling that respondent Hotel del Rio is not liable for the deficiency billings because of Panay Electric's use of a wrong multiplier factor. The Court held that Panay Electric is the only one to blame for such mistakes, repeatedly made, arising from culpable negligence of its employees.⁶³ In *Meralco*, the Court denied Meralco's right to demand payment of the differential billing because it failed to provide a factual or legal basis for its claim. Withal, the Court emphasized that Meralco could have easily verified any possible error in the statements of account given its technical knowledge and experience in providing electric service.⁶⁴ Meanwhile, as in this case, the Court applied the Service Agreement between the parties in *Ridjo Tape* in denying Meralco's claim for the full amount of the differential billings. The Court explained that Meralco has the imperative duty to make a reasonable and proper inspection of its apparatus and equipment and the due diligence to discover and repair defects; failure to perform such duties constitutes negligence.⁶⁵

If at all, *Panay Electric*, *Ridjo Tape*, and *Meralco* cases are applicable to remind the obligation of the entities engaged in the supply or distribution of electricity to discharge its functions with utmost care and diligence. The Court's discussion of the rationale behind the ruling in *Ridjo Tape* is instructive:

The rationale behind this ruling is that public utilities should be put on notice, **as a deterrent, that if they completely disregard their duty of keeping their electric meters in serviceable condition, they run the risk of forfeiting, by reason of their negligence, amounts originally due** from their customers. Certainly, **we cannot sanction a situation wherein the defects in the electric meter are allowed to continue indefinitely until suddenly the public utilities concerned demand payment for the unrecorded electricity utilized** when, in the first place, they should have remedied the situation immediately. If we turn a blind eye on MERALCO's omission, **it may encourage negligence on the part of public utilities, to the detriment of the consuming public.**⁶⁶ (Emphases supplied.)

576 Phil. 502, 520 (2008).

⁶⁰ *Supra* note 24.

⁶¹ *Supra* note 25.

⁶² *Supra* note 37.

⁶³ *Supra* note 60, at 270.

⁶⁴ *Supra* note 62, at 110.

⁶⁵ *Supra* note 61, at 194.

⁶⁶ *Supra*, at 195.

By the same token, the Court cannot allow NPC to recover the underbilling in full in this case lest the consuming public will suffer. Whether an electricity supplier or distributor is a public utility or a government-owned and controlled corporation, it is expected to discharge its functions with utmost care and diligence. NPC cannot avoid its responsibility by imputing participatory negligence on BENECO. On this point, the CA elucidated:

NAPOCOR, in an effort to veer away from responsibility, desperately impute participatory negligence on the part of BENECO by accusing it of not doing anything to investigate its unusually low systems losses during the covered period x x x as it showed more electricity being sold by BENECO to its consumer than what it was paying. NAPOCOR argue that this, alone, was enough to arouse a suspicion on the part of BENECO on the CTR setting in its Irian substation.

It should be mentioned, however, that the systems losses of BENECO as reflected on its Monthly Financial Statistical Report submitted to the ERC, covered its entire operation, not only the Irian substation, thus, BENECO had no way of knowing the systems loss for each of its substations. Furthermore, We have noted the self-serving testimony of Engr. Banayat, defendants' witness, expounded merely on the negative systems losses of BENECO, without giving any attention as to the instances when BENECO reached the average of twelve to eighteen percent (12-18%) systems loss mark set by the National Electrification Authority. Besides, as correctly argued by BENECO, there were only two (2) occasions when BENECO incurred negative systems losses.

And to be sure, even if these incidents were enough to arouse suspicion on the part of BENECO, it should be emphasized that the negative systems losses transpired in 2003 or three (3) years away from the time that CTR was set by NAPOCOR's employees. And contrary to NAPOCOR's posture of BENECO's negligence, the records readily reveal that BENECO did make a move in 2004, or a year later. As gleaned from the records, it was BENECO's employee, Engr. Umaming, who was to be credited for the discovery of the problem and with the consent of BENECO, lost no time in calling the attention of defendants thereafter.

In any case, even assuming for the nonce that BENECO was feigning ignorance about the low CTR setting, the inescapable conclusion at the end of the day is that defendants were still directly responsible for what happened due to their own negligence. For they could have, as they should have, increased the billing multiplier to the correct setting of 150/5. If, as defendants insist that BENECO cannot be said to be ignorant not to immediately determine something was amiss with the billing multiplier, then a lot more should be expected from them. It was incumbent upon NAPOCOR to protect its own business interest considering full and exclusive access to the billing meter and the pertinent data regularly gathered from such.

As it is, however, defendants did not do what they ought to do. They never lifted a finger even as they had all the ways and means to detect the problem and to correct the billing multiplier at the soonest time possible.



Instead, they casually went on with their business dealing with BENEKO for four (4) years, as if nothing was amiss at the Irian substation.⁶⁷

At this point, we stress that NPC was unaware of the error in its billing system. Were it not for BENEKO's honest intention to raise and correct the possible irregularities in the NPC's billing system, NPC would not have discovered the wrong CTR setting and multiplier. NPC's attempt to pass the blame to BENEKO for allegedly waiting for four years to report the matter to it is unjustified because NPC has the sole obligation to determine the correct CTR setting and maintain its billing meter system in the first place. BENEKO does not even have access to NPC's billing meter system. Regardless of who discovered the irregularities, it is undeniable that NPC failed to discharge its functions with utmost care and diligence. Therefore, it must bear the consequences of its own negligence.

BENEKO is entitled to a prompt payment discount.

The Policy Statement⁶⁸ provides that a customer is entitled to a 3% prompt payment discount on the total monthly bill due provided: (a) the total monthly bill is paid in full within the discount period, and (b) the customer has no unpaid account including any restructured account with NPC. In *Misamis Oriental*,⁶⁹ the Court maintained the ERC's ruling that Moresco I is still entitled to a PPD since it is willing to pay a portion of the underbilling based on Section 25, but NPC and TRANSCO refused.⁷⁰

The parties do not dispute that BENEKO has been paying its current monthly bills promptly. Although BENEKO did not offer to pay a portion of the underbilling, as in *Misamis Oriental*,⁷¹ it recognized its liability to pay the underbilling relating to the power bills corrected within the 90-day period in its Complaint.⁷² Since BENEKO's unpaid underbilling is still undetermined and disputed when NPC revoked the PPD on June 23, 2004, BENEKO cannot be considered to have any delinquent account. Hence, BENEKO is still entitled to a PPD. NPC cannot unilaterally revoke the discount on the basis of BENEKO's supposed unpaid billings. We quote with approval the following disquisition of the CA:

Insofar as the discontinuance of BENEKO's prompt payment discount, as well as the disconnection of BENEKO's power supply, We are likewise convinced that [NPC] had no clear legal right to do so. It was

⁶⁷ *Rollo*, pp. 53-54.

⁶⁸ A. Full Three Percent (3%) Discount

(a) Customer shall be entitled to a 3% prompt payment discount on the total monthly bill due provided that the total monthly bill is paid in full within the discount period, and provided further that customer has no unpaid account including any restructured account with NPC.

⁶⁹ *Supra* note 51.

⁷⁰ *Supra*, at 709.

⁷¹ *Supra*, at 69.

⁷² *Rollo*, p. 71.



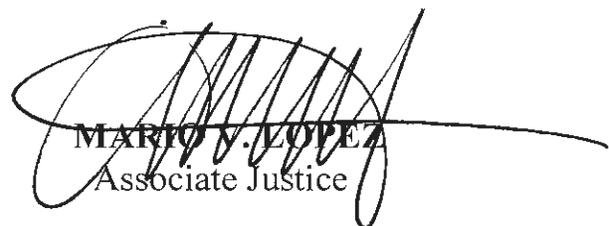
premature on the part of [NPC] to withhold the application of the prompt payment discount and to disconnect BENECON's power supply on the basis merely of its self-serving interpretation of their contract. The right of [NPC] to collect the same from BENECON, as well as the correlative obligation of BENECON to pay the amount supposedly due, was still highly disputable.

On this score, We agree with the court [*a quo*] that for as long as BENECON was paying its current obligation to [NPC] on time, the latter was bound to honor its obligation to extend the discount, notwithstanding the existence of its deficiency assessment against BENECON. x x x.⁷³

A final note. This is not the first time the NPC used a wrong multiplier, and this case will probably not be the last if the Court allows NPC to recover the underbilling at any time. The Court cannot foster a culture of inadvertence, complacency, and nonchalance in public service. It is unimaginable how NPC overlooked the wrong CTR setting for four years when its personnel conducts monthly readings to compute BENECON's power bills. BENECON's discovery of the possible irregularity, level of familiarity, and technical knowledge does not, in any way, reduce, negate, or even out NPC's egregious mistake and gross negligence, which caused a significant loss on the part of the government, and ultimately of the people.

ACCORDINGLY, the petition is **PARTLY GRANTED**. The Decision dated August 29, 2014 and Resolution dated May 22, 2015 of the Court of Appeals in CA-G.R. CV No. 96352 are **MODIFIED** in that Benguet Electric Cooperative, Inc., is liable for the underbilling arising from the use of a wrong multiplier received from February 17, 2004 to May 17, 2004. Civil Case No. 04-CV-2055 is **REMANDED** to the Regional Trial Court of La Trinidad, Benguet, Branch 63, to determine the amount of the underbilling in accordance with this Resolution. The Regional Trial Court is **DIRECTED** to conduct the proceedings with reasonable dispatch.

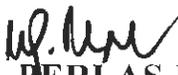
SO ORDERED.



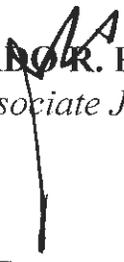
MARIO V. LOPEZ
Associate Justice

⁷³ Id. at 58.

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


AMY C. LAZARO-JAVIER
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice

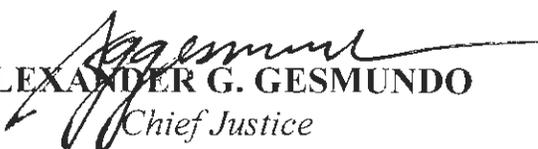
ATTESTATION

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


ESTELA M. PERLAS-BERNABE
Senior 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 Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice