

44 Phil. 363

[G.R. No. 19462. January 16, 1923]

YNCHAUSTI STEAMSHIP COMPANY, PETITIONER, VS. THE PUBLIC UTILITY COMMISSIONER AND THE BOARD OF APPEAL, CREATED BY SECTION 30, ACT NO. 2307, AS AMENDED, RESPONDENTS.

D E C I S I O N

STATEMENT

The petitioner is a shipping company now operating the steamship *Venus*, which was formerly used on the Manila-Vigan-Currimao-Aparri route. At its request and by virtue of a decision of the Public Utility Commissioner October 13, 1920, authority was given to take the steamship *Venus* from that route and use it on the Manila-Iloilo route on certain conditions, the first of which reads as follows:

“First. That the applicant shipping company, in the operation of its steamer *Venus* on the Manila-Iloilo route, will observe the following schedule of trips:

“Sailing from Manila	Sailing from Iloilo
“On Tuesdays at 5 p. m.	On Fridays at 5. p. m.

“And will not make any change in the schedule of trips nor withdraw or suspend the operation herein authorized of the said vessel except upon previous authority from this Commission to which all accidents in connection with its operation will be reported, furnishing therewith a detailed account of their causes, as soon as possible after the occurrence.”

November 10, 1920, the petitioner applied to the Commissioner to change the sailing schedule of the steamship, so as to leave Manila Wednesday at 4 p. m. and Iloilo Saturday p. m., and, among others in the petition, alleged the following reasons:

“This is to inform you that, from actual practice, the sailing from Manila to Iloilo on Tuesdays of the steamship *Venus* is not to the best interest of those concerned in view of the fact that it reaches Manila on Sundays when there is no labor available and the only two working days left are not enough for the unloading and loading, we have decided that its sailing from Manila be at 4 o’clock in the afternoon every Wednesday beginning this week. In view of this, and the vessel sailing from Manila on Wednesdays, it will reach Iloilo early Friday morning and will return therefrom on Saturday afternoon, arriving in Manila early on Monday morning, and it will thereby have three working days here which is necessary in order that the weekly service be rendered efficiently and satisfactorily.

“Praying that you approve this slight change which favors both us and the public in general, and with sincere thanks in advance, we remain,

“Very truly yours.”

The petition was treated as a separate case, and on November 16, 1920, the usual order of publication was made for a hearing which was set for December 3, 1920, at 10.30 a. m. November 18, 1920, the petitioner applied to the Commissioner for a temporary permit to use the sailing date proposed in the change pending the hearing, and the Commissioner then issued a temporary permit for two trips, the first on November 24, and the second on December 1, 1920, which was later extended until the final decision was rendered.

Numerous protests and objections were filed against the granting of the petition, upon which a large amount of evidence was taken and several hearings were had covering a period from December 7, 1920, to December 21, 1921. As a result on July 27, 1922, the Public Utility Commissioner rendered a decision in which the temporary permit was revoked, and it was ordered that the steamship

Venus strictly comply with the decision of the Commissioner rendered on October 13, 1920, in case No, 1947. His decision was later affirmed by the Board, from which petitioner appeals to this court, claiming that the respondents erred:

“In holding that the Public Utility Commissioner is empowered by law to control the sailing schedules of ships operating as common carriers in the inter-island trade in the manner attempted in this case.

“In ruling that the Compañia Maritima has acquired a prior right to Wednesday of each week as a sailing date from Manila and to Saturday of each week as a sailing date from Iloilo.

“In holding that the public convenience would be subserved by denying the petition of the Ynchausti Steamship Company to change its sailing days from Tuesday to Wednesday of each week from Manila, and from Friday to Saturday of each week from Iloilo.”

JOHNS, J.:

The case is brought before this court under section 37 of Act No, 2307, known as the Public Utility Law, which provides as follows:

“Any order made by the Board may be reviewed on the application of any person or public utility affected thereby, by certiorari in appropriate cases, or by petition, to the Supreme Court, within thirty days from the date upon which such order becomes effective, as herein provided; said petition shall be filed with the clerk of the Supreme Court and a copy thereof served upon the secretary of the Board either personally or by leaving same at the office of said Board in the City of Manila. The Supreme Court is hereby given jurisdiction to review said order of the Board, and to set aside such order when it clearly appears that there was no evidence before the Board to support reasonably such order, or that the same was without the jurisdiction of the Board. The evidence presented to the Board, together with the finding of the Board and any order issued thereon, shall be certified by the Board to the Supreme Court.”

Assignments of error Nos. 2 and 3 present questions of fact only, upon which there is a sharp conflict in the evidence. Upon both assignments the Public Utility Commissioner made findings against the petitioner, and the evidence reasonably supports his findings.

Upon those points there is a material conflict in the evidence, and we cannot say, as a matter of law, that it is not sufficient. Upon the remaining point, section 16 of Act No. 2694, as it amends section 19 of Act No. 2307 and Acts Nos. 2313 and 2362, among other things provides:

“* * * Nor shall any public carrier by land or water within the Philippine Islands or any public utility, without the approval of the Commission first had, make any permanent change in its time tables and sailing schedules or in its service, or fail to continue to call at any of its regular points or ports of call.”

This law was enacted March 9, 1917.

Section 14 of original Act No. 2307 provides:

“The Board shall have general supervision and regulation of, jurisdiction and control over, all public utilities, and also over their property, property rights, equipment, facilities, and franchises so far as may be necessary for the purpose of carrying out the provisions of this Act. * * * “

The legal force and effect of the argument for the petitioner is that section 19 above quoted is not a delegation of legislative authority, and, for such reason, is invalid. The language of the section is clear, positive and certain. It expressly says that no public utility by land or water shall ever make any permanent change in its time tables, its service or sailing schedules without the approval of the Commission first had and obtained. That carries with it and implies legislative power vested in the Commission to fix sailing schedules as a condition precedent to the granting of a license to do business; otherwise, that portion of section 19 would be a nullity. It is clear that the Legislature intended to vest that power in the Commission. The remaining question is whether

or not the Legislature itself has the power to fix the sailing schedules. In a certain sense the waterways of the Philippine Islands correspond to its roads and highways. No case direct in point has been cited by counsel on either side, and in so far as we are advised, the important question here has never been decided by any court, hence, it is one of first impression in this court.

Section 390 of Pond on Public Utilities, p. 450, says:

“The control of the streets and highways is in the state in trust for the public for whose use and convenience they are dedicated as a means of transportation and communication, thereby affording to the public the means by which they may go from place to place, communicate with each other and enjoy such other conveniences as the various kinds of service provided by municipal public utilities afford. As the streets and highways are dedicated exclusively for the use and convenience of the public generally, it follows that the legislature acting for the state, or any municipal agency to which this power may have been delegated, should make no grant which will materially interfere with the uses for which the streets and highways are dedicated.”

And section 414, p. 476, says:

“The rule of law is now universally accepted that when private property is devoted to a public use it is subject to public regulation and control. In recognition of this doctrine and as furnishing a forceful definition and a current application of it to modern industrial conditions for the purpose of controlling public service corporations providing any public utility service, the leading and most important case is that of *Munn vs. Illinois* (94 U. S., 113; 24 L. ed., 77). Under this decision property is clothed with a public interest and devoted to a public use when used in a manner to make it of public consequence, and to affect the entire community, so that when one devotes property to a use in which the public has an interest, he virtually grants to the public an interest in that use, and submits it to public regulation and control for the common good to the extent of the interest so

granted.”

The whole tenor and trend of modern legislation is to vest the Public Utility Commission with power to regulate and control the operation of public utilities under reasonable rules and regulations in the interests of the public. That was the purpose of the amendment. Here, as elsewhere, the Commission is vested with a large, discretionary, administrative power, and, as a general rule, courts will not interfere with the exercise of that discretion when it is just and reasonable and founded upon a legal right. In the instant case, a large amount of testimony was taken upon all of the questions of fact involved. Upon which the Commissioner found against the petitioner. The Legislature has, in legal effect, vested the Commissioner with power to fix sailing schedules of ships and after an exhaustive hearing, the Commissioner found that it would be against the interests of the public to grant the proposed change in the sailing schedule of the steamship *Venus*. We are not prepared to say that the law is unconstitutional. Neither can we say, as a matter of law, that the findings of the Commissioner are not sustained by the evidence, or that they were made “in excess of the jurisdiction conferred upon them by law.”

The writ is denied and the ruling of the Commissioner sustained, without costs to either party. So ordered.

*Araullo, C.J., Street, Malcolm,
Avanceña, Villamor, Ostrand, and Romualdez, JJ., concur.*