

101 Phil. 1054

[ G.R. No. L-9068. August 29, 1957 ]

**MARIANO SAMPORSANTO, PETITIONER, VS. PUBLIC SERVICE COMMISSION,  
RESPONDENT.**

**BENGZON, J.:**

Submitted for final decision, this case appears to be inadequately presented—thru the appellant's fault.

He petitioned for the review of the Public Service Commission's order denying his application for permit to operate a line of motor vehicles for passenger service. He named said Commission as the only respondent, and served on the latter his petition and his memorandum. The latter, being merely a nominal party, not required to defend its actuations,<sup>[1]</sup> filed no answer nor reply. To uphold such order was the task of the party or parties who had opposed appellant's application for permit. And, it was appellant's duty to implead such parties as respondents here.<sup>[2]</sup>

Naming no respondent except the Commission, appellant stated in his petition that his application was uncontested. So this petition for review was heard without opposition after the Commission had expressed its lack of interest in the subject matter. However upon examination of the record for purposes of decision, we found that several transportation operators had objected in writing to the petitioner's application, to wit: Antonio Heras, Vicente Heras, Cam Transit Co., Inc., Quirino Manalo and others.

They stated that the services "presently rendered" by them on the line solicited by applicant were sufficient to take care of the "present volume" of traffic; that applicant's plan would cause ruinous competition etc. etc.

And at the first hearing of November 26, 1954 they were represented by their respective attorneys. It is true that when the case was again called for hearing on February 21, 1955, none of them appeared, and petitioner presented evidence without contradiction before the Commission's referee; but such failure does not mean withdrawal of their

previously expressed objections. No statement exists in the record construable in any sense as withdrawal. And although they have not thereafter asked for opportunity to introduce evidence to support their opposition, it is reasonable to infer that they refrained from further occupying the Commission's attention because they were satisfied with the order dismissing the application, for the reason among others, of applicant's failure to prosecute for about four years. The Commission's order of dismissal says in part:

"In view of all the foregoing, and pursuant to the agreement of the Commissioners, dated October 29, 1952, the recommendation of the National Traffic Commission and the directive of the President of the Philippines, dated October 31, 1952, not to entertain applications of existing operators for increase of equipment or trips in Manila in which category this application falls, the said application is hereby DENIED."

The appellant should have impleaded these oppositors as respondents. For this failure, in line with the ruling in Toledo Transportation case *supra*, we have to dismiss this petition for review.

We do not give appellant another chance to amend as was done in the Toledo case, *supra*, what with the resultant delay and the cogent reasons advanced in the appealed order.

Petition to review dismissed, with costs against petitioner.

*Paras, C J., Padilla, Montemayor, Reyes, A., Bautista Angela, Labrador, Concepcion, Reyes, J. B, L., Endencia and Felix, JJ., concur.*

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<sup>[1]</sup> Although it may defend, if it so chooses.

<sup>[2]</sup> Toledo Transportation Co. vs. Posadas, 57 Pfil. 692.

