

102 Phil. 835

[ G. R. No. L-8845-46. January 07, 1958 ]

**BATANGAS TRANSPORTATION COMPANY AND LAGUNA-TAYABAS COMPANY,  
PETITIONERS VS. MARTIN SOUZA, JOSE SILVA AND PUBLIC SERVICE  
COMMISSION, RESPONDENTS.**

**D E C I S I O N**

**LABRADOR, J.:**

Certiorari against an order of the Public Service Commission dated February 22, 1955, rendered in the above-entitled cases.

In the middle of the year 1950, Martin Souza was the holder of a certificate of public convenience for the operation of five passenger trucks along Lucena-Manila, Batangas-Manila and Biñan-Manila lines. For various periods of time Souza did not operate on these lines, so petitioners in these cases denounced him before the Public Service Commission. As a result of the complaints filed against him, orders were issued dated June 9, 1951, February 21, 1952, November 28, 1952, imposing fines upon him. On February 26, 1953, also for failure to operate, he was warned that if he should again commit the same fault his certificate will be cancelled. Again on January 27, 1954, an order to the same effect was issued by the Commission.

Souza evidently did not put his heart and money to the business. On June 8, 1953, he transferred his certificate of public convenience and his five auto trucks to respondent Jose Silva. This transfer was provisionally approved on June 16, 1953, but on June 19, 1953, the provisional approval was reversed and Silva ordered to return the plates of the trucks he had bought from Souza. But on March 22, 1954, again the Public Service Commission provisionally approved the transfer. The petitioner were not notified of the transfer or of the order of the court provisionally approving the same. On January 7, February 1, April 2, May 3 and June 1, 1954, petitions for cancellation of the certificates of public convenience of Souza were again filed by the petitioners. The hearing of these petitions was set for June 14, 1954. After the hearing the Commission ordered the suspension of the certificate of public

convenience for a period of 30 days and prohibited either by the certificate.

Again on August 23 and September 1, 1954, petitions for the cancellation of the certificate of public convenience were presented. On November 22, 1954, after hearing, the Public Service Commission found that the petitions for cancellation were well-founded for the reason that Souza violated the orders of the Commission with respect to the suspension of the Manila-Biñan line. The certificate of public convenience issued to him was, therefore, ordered to be cancelled, and the provisional approval of the transfer of the certificate of public convenience to Jose Silva set aside. Thereupon, Martin Souza filed a petition for reconsideration which the Commission denied on December 8, 1954. Jose Silva also filed a motion for reconsideration. This was granted by the Court in its order of February 22, 1955, the pertinent portions of which reads as follows:

“Movant Silva, however, pleads for equity and an opportunity to operate the lines which he acquired for a valuable consideration and to make use of the trucks which he has acquired for the purpose of operating the lines, claiming that the trucks are ready and available for use. It appears that Silva has acquired five trucks from the Luneta Motor Company at a cost of approximately P59,000 and that this investment would be wasted if they were not allowed to operate on the lines in question. The acquisition of these trucks in a way establishes that Silva actually took steps to provide himself with trucks for these lines and since it is possible that he believed in good faith that there was no obligation on his part to operate the lines until the Commission had acted on the petition for substitution of the buses which he acquired from Souza, we are inclined to, as we hereby, grant Jose Silva a last opportunity to operate the lines by registering the five trucks needed for the same within an unextendible period of ten (10) days from date of receipt hereof. In so ruling, we take cognizance of the fact that there is a public need for the service which Silva will render on these two lines and that even now there are pending applications for additional trips on the line Lucena-Manila which would indicate that public convenience has been affected by the cessation of Silva’s operation on the line.

“The motion for reconsideration of Jose Silva is, therefore, granted and the cancellation of the lines—Manila-Batangas and Manila-Lucena decreed in the order of November 22, 1954 is set aside on the express understanding, however, that of the five trucks needed for these two lines are not registered within ten

(10) days from his receipt hereof, the said lines will be considered as automatically cancelled.”

It is the above order approving the transfer of the certificate of public convenience of Jose Silva that is now sought to be reversed by petitioners on the ground that the issuance of the same constitutes a grave abuse of discretion on the part of the Commission.

The record discloses that the original holder of the certificate, in spite of recurrent abandonment of the service on various occasions, had received very lenient treatment at the hands of the Commission. The leniency must have been responsible in part for the irregular service rendered. Had the Commission been more strict in enforcing its orders, holders of certificates would have been more careful and regular in the performance of the obligations that they have assumed under the certificates issued to them. But Commission must have felt that strict compliance with its orders might be too harsh on holders of certificates, who must have invested great portions of their material resources and their personal attention and labor in rendering public service. The Commission must have deemed it quite harsh upon the holder of a certificate for it to order its absolute cancellation, thus depriving the holder of the opportunity to make something out of a business which may not have been successful or productive and had thus to be disposed of.

The denial of the motion for reconsideration filed by Souza seems to be well deserved. But with respect to the respondent Jose Silva, the record fails to show that he has been guilty of such neglect as the grantor of the certificate, Martin Souza, had been guilty of. True it is Silva did not immediately operate the lines which had been transferred to him, but operation of a line is one that cannot be done in a moment; time must be given for the purchase of equipment and for the organization of the men to be employed on the line. We, therefore, believe that no abuse of discretion has been committed by the Commission in allowing Silva to continue with the certificate, especially in view of the fact that he has invested quite a sum in the purchase of trucks for the line, which was no less than P59,000. Silva was not responsible for the negligent operation or abandonment of the line by his predecessor-in-interest. Granting that the latter had been negligent; such grantor's conduct should not operate to prejudice the grantee. We, therefore, find no reason for holding that the Commission abused its discretion in approving the transfer of the certificate of public convenience to Silva, who appears to be competent and who has already taken steps to provide the lines with the necessary equipment.

The petitions in the above-entitled cases are hereby denied, with costs against the petitioners.

*Paras, C. J., Bengzon, Padilla, Reyes, A., Bautista Angelo Concepcion, Reyes, J. B. L., Endencia and Felix. JJ., concur.*

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