

103 Phil. 158

[ G. R. No. L-10625. March 22, 1958 ]

**RIZAL MANILA TRANSIT, INC., PETITIONER, VS. CRESENTE VICTORINO,  
RESPONDENT.**

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

**BAUTISTA ANGELO, J.:**

On November 23, 1954, Cresente Victorino filed an application with the Public Service Commission to operate a TPU service on the line Pililla (Rizal) to Divisoria (Manila) via Pasig and vice-versa with the use of fifteen (15) units. The application was set for hearing on January 25, 1955, the Commission ordering the publication of the notice of hearing in two Manila newspapers and the service of copies thereof, together with copies of the application, upon the operators to be affected thereby enumerated in a list thereto attached.

To the application, written oppositions were filed by Raymundo Transportation Co., Teofilo Cerda, Olimpio Eugenio, Halili Transit, Delfin del Rosario, and A. Gergaray Tanchingco. The hearing took place for several days beginning from January 26, 1955 to January 17, 1956, and it was only on January 10, 1956 when the Rizal-Manila Transit, Inc. filed a belated written opposition claiming a preferential right to operate on the same line in its capacity as lessee of the certificates of Raymundo Transportation Co. and of one Toribio Raymundo. Of the aforesaid oppositors, only Raymundo Transportation Co. and A. Gergaray Tanchingco adduced evidence in support of their contentions, whereas the applicant presented eleven (11) witnesses besides his own testimony. The first has a certificate to operate a line from Pililla to Manila, while the second a certificate to operate from Binañonan to Manila.

After hearing, the Commission overruled the oppositions and granted to the applicant a certificate of public convenience to operate four (4) units on the line Pililla-Manila subject to certain conditions specified in the decision. Rizal-Manila Transit, Inc. filed the present petition for review.

The facts as found by the Commission are: That the residents of various towns traversed by

the line Pililla-Manila have difficulty in obtaining adequate transportation from Pililla to Manila and vice-versa on account of the deficiency of the service of the Raymundo Transportation Co., or Raytranco for short; that they have petitioned the municipal councils of their towns to make representations for the improvement of the bus service to alleviate the difficulties they encounter every day due to lack of means of transportation; that although there are buaes in operation, these buses are in very bad condition, and because of the heavy traffic in the morning and in the afternoon after office hours, it is hard to find accommodation in the buses and the residents have to wait for half hour or more before they can be accommodated, and sometimes they cannot sit down during the trip because of the crowded condition of the buses. The applicant presented several exhibits consisting of resolutions of the municipal councils and petitions signed by hundreds of residents all claiming for improved bus facilities from Pililla to Manila.

On the other hand, the evidence of oppositor Tanchingco merely refers to the service rendered by him from Binangonan to Manila. The Raytranco on its part presented two witnesses but, according to the Commission, their testimony cannot overcome the evidence of the applicant as to the need for additional facilities on said line. It was also found that most of the trucks of the Raytranco had been levied upon and taken over by its creditors due to non-payment of its obligations. It also appears that the Raytranco has leased its Pililla-Manila line to Rizal Manila Transit, Inc. and the latter is now operating the same in its capacity as lessee.

From the evidence submitted, the Commission made the following conclusion: "We are satisfied \* \* \* that it is necessary to authorize more units on the line in order to provide additional transportation facilities which are greatly needed and that such an authorization will promote public convenience. We also find that applicant is legally and financially qualified to put up and operate the additional units. We consider, however, that in view of the service now being rendered by Rizman Transit under its lease contract, applicant herein may be authorized four units to operate additional trips on the line Pililla-Manila to supply the proven need for additional transportation facilities."

It is now contended that the Commission erred in granting respondent a certificate of public convenience to operate a TPU service from Pililla to Manila in preference to petitioner who had a similar application and who is already an authorized operator of the same line.

This contention cannot be sustained, it appearing that petitioner is not an old operator on the same line applied for by respondent but merely a lessee of the Raymundo Transportation

Co. He only stands into the shoes of the latter which is the real party in interest to oppose the application. In fact, the latter put up an adverse stand but failed because it was found that because of its deficient service the residents of the towns affected found it hard to find accommodation in the buses it operates so that there was need to increase the transportation facilities on the line Pililla-Manila. It likewise appears that petitioner was also a lessee of a certificate granted to A. Gergaray Tanchingco or of that granted to one Delfin del Rosario, but the lines covered by said certificates only extend to Binañonan or to Angono and Taytay, which is only a portion of the line Pililla-Manila. Petitioner therefore cannot claim a preferential right to the facilities now claimed by respondent because he is not an old operator in his own right as he claims.

It is true that at the time the decision in this case was rendered petitioner had also a pending application to operate a line similar to the one applied for by respondent, but petitioner cannot have any reason to complain because, being on the same footing as respondent, it was also granted a certificate to operate on the same line with even more unite than those granted to respondent. It would be unfair for it to claim a monopoly of the line.

Wherefore, the decision appealed from is affirmed, with costs against petitioner.

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