

Title: Philippine Consumers Foundation, Inc. v. National Telecommunications Commission and Philippine Long Distance Telephone Co.

Facts:

On March 2, 1983, the petitioner, Philippine Consumers Foundation, Inc. (PCFI), sought to annul and set aside the decision of the National Telecommunications Commission (NTC) dated November 22, 1982, which approved the revised schedule of rates for the Subscriber Investments Plan (SIP) of the respondent, Philippine Long Distance Telephone Co. (PLDT). The said SIP rates were promulgated without conducting a public hearing or promulgating pertinent rules and regulations, an action that PCFI alleged to be arbitrary, oppressive, and executed with grave abuse of discretion.

Initially, the Supreme Court annulling and setting aside the challenged decision and order. The decision was, however, not unanimous—9 justices concurred, 3 took no part, and 1 reserved their vote. PLDT then moved for a 15-day extension to file a motion for reconsideration, which was granted.

PLDT subsequently filed a motion for reconsideration on January 12, 1984. This was followed by the filing of a Supplemental Motion for Reconsideration on February 27, 1984. The NTC joined PLDT's motion for reconsideration by adopting the same through the representation of the Solicitor General.

On April 3, 1984, the Supreme Court denied the first motion for reconsideration. Yet, in an unforeseen turn of events, the Court would later grant PLDT's motion to file a second motion for reconsideration within 15 days from April 16, 1984—a procedure accepted by a resolution dated May 8, 1984 but issued on May 11, 1984.

Issues:

The primary legal issue was whether the NTC must first promulgate rules and regulations before approving the revised SIP rates presented by PLDT, pursuant to Section 2 of Presidential Decree No. 217. Another issue was whether the existing substantive and procedural laws were sufficient for NTC's determination of the reasonability of the amounts charged under the SIP.

Court's Decision:

In a procedural twist, the Supreme Court reconsidered its previous decision and set it aside, subsequently dismissing the petition. The Court, upon re-evaluation, held that the word "may" in the provision of Presidential Decree No. 217, concerning the promulgation of

pertinent rules and regulations by NTC, should be taken in its permissive sense and not as mandatory. This interpretation asserted that the existing laws, including the Public Service Act (Commonwealth Act No. 146, as amended) and the rules issued thereunder, already provided sufficient groundwork for the NTC to appraise the validity and fairness of the PLDT's SIP rates.

Doctrine:

The doctrine established in this case resolves around statutory construction of the term "may" in legislative texts, where the ordinary meaning of the word takes precedence unless there is a manifest contrary intention, and "may" is to be considered permissive rather than mandatory.

Class Notes:

1. Principle of Statutory Construction: "May" is generally permissive and not mandatory.
2. Presidential Decree No. 217: NTC has the discretionary power to promulgate rules and regulations for the implementation of policies in the telephone industry.
3. Public Service Act: Section 16(c) allows the NTC to provisionally fix telecom rates without a hearing while retaining the power to call a subsequent hearing.
4. Due Process: The requirement for the promulgation of specific rules is not among the essentials of due process in quasi-judicial proceedings, per *Ang Tibay vs. CIR*.

Historical Background:

This case grapples with the tension between regulatory frameworks for public utilities and rapid technological and market developments in the Philippines. At the time of the decision, the nation witnessed significant changes in telecom policy, particularly with the implementation of P.D. 217, which responded to the industry's exceptional capital intensity and the strategic necessity of widespread telecom services as prerequisites for flourishing trade and commerce. It highlighted the initiative towards subscriber self-financing in underpinning equity participation and the democratization of utility ownership, a reflection of the state's socio-economic aspirations during the period of Presidential rule.