

A. L. AMMEN TRANSPORTATION CO., INC., BICOL TRANSPORTATION CO., INC., AND CONSOLIDATED AUTO LINES, INC., PETITIONERS, VS. EMILIANO DEL ROSARIO, RESPONDENT.

G.R. No. L-17992. August 30, 1963

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an appeal from a decision of the Public Service Commission authorizing the respondent Emiliano del Rosario to operate four passenger trucks from Tiwi to Naga City and one passenger truck from Tiwi to Legaspi City, which decision was rendered on December 22, 1960. In approving the application of respondent to operate the trucks, the Public Service Commission found that applicant "is financially capable of maintaining and operating the service applied for."

The petitioners herein are transportation companies engaged in transporting passengers in the Bicol regions, and operate various lines throughout the provinces of Albay and Camarines Sur, which lines appear delineated on a road map of southeastern Luzon attached to their brief. The petitioners-appellants claim that the applicant, respondent Emiliano Bel Rosario, is not financially capable of establishing the service granted to him by the Public Service Commission.

The evidence submitted at the trial by the applicant- respondent himself to prove his financial capacity to establish, maintain and operate the passenger truck lines granted to him by the Public Service Commission consists of his own testimony, which is to the effect that he has commercial property consisting of four hectares valued at P14,000 in the commercial districts of Pasig, Rizal; that he has a residential house in Makati, Rizal on a lot containing an area of 600 square meters, which residential house and lot are valued at P20,000 and rented at the rate of F100 monthly; that he is a driver of the Encinas Transit receiving approximately five or six pesos a day, in which position he has been employed for seven months.

Petitioners- appellants argue before us that even with the alleged landholdings of the respondent the latter does not have the financial capacity or means to undertake the proposed operation of the public service authorized, for the reason that motor trucks can be acquired these days only at very high prices; so, the fair market value of the respondent's properties would not be sufficient to raise the amounts necessary to make the down payment for the five auto trucks authorized and thereafter defray the expenses for the construction of the bodies thereof.

Petitioners-appellants further argue that upon examination of the tax rolls for the municipality of Pasig, Rizal in the assessor's office for the province of Rizal, no piece of real estate appears to have been declared for taxation purposes in the name of applicant-respondent Emiliano del Rosario. They further claim that they have found out that a tax declaration for a house and lot belonging to applicant-respondent situated in the barrio of Olympia in the municipality of Makati has a total assessment of only P1,780, the lot containing an area of 279 square meters and not 600 square meters as claimed. Attached to the memorandum presented by the petitioners-appellants are Annex "A" showing that Emiliano del Rosario does not appear in the tax rolls of the municipality of Pasig; Annex "B"

certifying that Emiliano del Rosario's property in the municipality of Makati consists of a house and lot, the lot being 279 square meters assessed at P700 and the house assessed at P1,800.00; Annex "C" which shows that on January 30, 1962 Emiliano del Rosario had registered with the Motor Vehicles Office only one Chevrolet truck; and lastly, Annex "D", where it appears that since the year 1961 Emiliano del Rosario has not registered new trucks in the Motor Vehicles Office.

Replying to the brief and the memorandum of the petitioners-appellants, respondents argues "that there is no law or jurisprudence which requires with exactitude in terms of money and property the financial standing of an applicant for public service" and that it is the Public Service Commission which can best determine whether applicant has sufficient capacity or not. Subsequently, in a motion presented to this Court on April 15, 1963, counsel for respondent Emiliano del Rosario has petitioned the Court to admit evidence of the fact that the movant-appellee Del Rosario has successfully acquired and subsequently registered with the Motor Vehicles Office all the five units authorized to be operated. No supporting evidence of the fact of such acquisition and registration alleged in the motion has, however, been submitted.

Upon the facts stated above this Court cannot do otherwise than to reverse the finding of the Public Service Commission that applicant-respondent has the required financial means or ability to establish the passenger lines applied for and authorized in the decision of the Public Service Commission. The Court can take judicial notice of the fact that trucks are very expensive and costly. The Court can also take judicial notice of the fact that to provide trucks with the necessary bodies and tires, all of which are expensive, considerable capital is demanded. And in order that an operator of a passenger line can establish a reasonably satisfactory service and insure the safety of its passengers and with a reasonable degree of success, not only must the equipment be in reasonably good condition but sufficient capital must be had on hand to begin the operation of the business to enable it to pay drivers, mechanics and other employees required to maintain it efficiently. It is true that the law does not fix the amount necessary for the establishment of the business and that this matter is left to the discretion of the Public Service Commission; but the evidence submitted reasonably satisfies us that the financial condition of the respondent-appellee renders it impossible for him to run the public service he has been authorized to establish and operate and thereafter maintain it efficiently and successfully.

The alleged subsequent registration of trucks in the name of the respondent without the presentation of the corresponding certificates of registration, nor evidence of the condition of the registered trucks, or of the fact that the said trucks do not belong to any other individual (for if they do belong to another individual respondent would only be a dummy of said individual) can not in any way change the above finding of this Court that the applicant-respondent does not have the financial ability to establish, maintain and operate the public service utility authorized.

Wherefore, the decision appealed from should be, as it is hereby, set aside and the application of the applicant-respondent denied. Without costs.

Bengzon, C. J., Padilla, Bautisia Angelo, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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