

THE MUNICIPALITY OF GATTARAN, PETITIONER, VS. DOROTEO ELIZAGA, RESPONDENT. THE MUNICIPALITY OF GATTARAN, PETITIONER, VS. FRUTO ELIZAGA, RESPONDENT.*G.R. Nos. L-4378-79. May 28, 1952*

Ponente: MONTEMAYOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/1777e5dae2ba/>**MONTEMAYOR, J.:**

These two cases call for an interpretation of Sections 2318-2320 of the Revised Administrative Code in connection with Section 13 of Commonwealth Act 146 known as the Public Service Act, as regards jurisdiction over the establishment and operation of municipal ferries. Under Article XX, Chapter 57, Title IX, Book III of the Revised Administrative Code, entitled "Conduct of Certain Public Utilities", Sections 2318-2320 provide that a municipal council shall have authority to acquire or establish municipal ferries; that the municipal authorities may either conduct said public utility upon account of the municipality or let it to a private party who is the highest and best bidder, for a period of one year, or, upon the previous approval of the Provincial Board, for a longer period not exceeding five years. Under these legal provisions the municipality of Gattaran, Cagayan, for many years had been maintaining ferry service in several places across the Cagayan river and its tributaries, all within its territorial jurisdiction, enacting suitable ordinances for the purpose. The last ordinance approved was Ordinance No. 17, series of 1948, approved by the Provincial Board on November 26, 1948. It provided rules and regulations respecting the maintenance of those municipal ferries with a schedule of fares. It also provided for the submission of bids. As a result of the public bidding for the operation of these ferries, held on December 15, 1949, Fruto Elizaga won the bids for the Centro-Callao Ferry for P1,200 per annum, and Minanga-Casicallan Ferry for P110.00 per annum; Domingo Persiano won the bid for the Guising-Aggunetan Ferry for P25, and Celestino Tabrilla for the Guising-Calapangan Ferry for P150.

On March 4, 1950, Fruto Elizaga filed an application with the Public Service Commission, Case No. 56020, for the operation of a ferry service in the following places:

- (a) CENTRO-NABBANNAGAN
- (b) CENTRO-GUMAO
- (c) MINANGA-CASICALLAN
- (d) CAUNOAN-CENTRO

all in the municipality of Gattaran, Cagayan.

On March 6, 1950, Doroteo Elizaga, brother of Fruto, also filed an application with the Public Service Commission, Case No. 56183, to operate a ferry service on the following places:

- (a) CALLAO-CENTRO
- (b) FUGU-DUMMUN
- (c) GUISING-CALAPANGAN
- (d) LABOGAN, GATTARAN-ABARIONGAN, FAIRE

(e) NASSIPING, GATTARAN-DUNGAO, FAIRE

also all within the municipality of Gattaran.

On July 26, 1950, the Municipality of Gattaran filed its opposition to the applications of Doroteo and Fruto on the ground that the municipality was able and willing to operate these ferries; that for the Commission to grant permits to the applicants would cause great loss of revenue to it; and that the authority of the municipality to acquire, maintain and operate municipal ferries is still good and subsisting.

On July 28, 1950, the municipality of Gattaran filed a motion to dismiss these applications on the ground that the Public Service Commission had no jurisdiction over them, said jurisdiction being lodged in the Municipal Council.

On September 23, 1950, the Public Service Commission, overruling the opposition of the municipality, granted the two applications, finding that the applicants could promote public convenience and interest in a proper and suitable manner and stating that under Section 13 of Commonwealth Act 146 as amended, the Commission had jurisdiction, supervision and control over the operation of ferry services. These two cases now before us are for the review of those two decisions of the Commission.

The jurisdiction granted by Section 13, Commonwealth Act 146 to the Public Service Commission over ferries is general. It is the same general jurisdiction of the Public Service Commission which includes a long list of public utilities from common carriers and ice plants to telephone and wireless telegraph systems. Said general jurisdiction includes supervision and control of the equipment and other properties of said public services or utilities, intended to insure and safeguard the convenience, comfort and safety of the public. On the other hand, grant of supervision and authority by the Administrative Code to municipalities or municipal councils over public utilities such as municipal ferries, markets, etc. is specific, and undoubtedly had as its main purpose, providing an additional source of revenue to municipal corporations for their maintenance and operation. The two seemingly conflicting jurisdictions—one by the Public Service Commission and the other by the municipalities may readily be reconciled. Whether the operation of a municipal ferry be undertaken by the municipality itself or let and given to a private party after public bidding, it should be supervised and regulated by the Public Service Commission. When a private party, winner in a public bidding conducted by the Municipal Council, like Fruto Elizaga, gets the permit to operate a municipal ferry from the municipality, before he can operate, he must first obtain a certificate or permit from the Public Service Commission which upon granting it, will fix the rates to be charged by him as well as specify the kind of equipment to be used by him for the comfort, convenience and safety of the public using said ferry. Of course, it will readily be understood that in fixing the rate to be charged by the operator the amount he has paid to the municipality for the privilege to operate the ferry must be taken into account by the Public Service Commission so as to allow a reasonable margin of profit.

This arrangement or procedure is not dissimilar to that followed in cases of a grant of electric plant franchise by a municipality under Act 667. In such a case, the municipality grants a franchise to install and operate an electric plant. Before the grantee, however, can operate he must apply to the Public Service Commission for a certificate of public convenience and necessity. The Commission fixes the rates to be charged by said grantee and specifies the equipment to be used etc.

Oftentimes, a ferry is used not only by the residents of a single municipality but by people from many municipalities, specially when the ferry is a continuation of a public or national highway. That may be one of the reasons for vesting the Public Service Commission with general Jurisdiction over ferries. The Commission with its supervisors and technical personnel is in a better position to determine and fix reasonable rates to be charged, for the protection and benefit of residents not only of the municipality where the ferry is located but of all the

towns, even provinces affected; also to specify the kind of equipment to be used, specially when motor-driven, and the manner of its operation, so as to insure maximum convenience, speed and safety for the public. In cases of newly opened lands of the public domain where the ferry is not found in any organized municipality, the Public Service Commission may find itself with original jurisdiction over said ferry, and prospective applicants may directly file their application with it.

In these two cases, the Public Service Commission exceeded its jurisdiction in overruling the opposition of the municipality of Gattaran. It had no power to consider and grant the applications without the previous approval and grant of the municipality for the reason that the ferries in question were within the territorial jurisdiction of the municipality.

In this connection, it might be suggested that inasmuch as certificates of public convenience granted by the Public Service Commission are generally for a relatively long period of time, municipal councils would do well to also lengthen the period of the grant of the privilege of operating municipal ferries to the highest bidder, not only for one year as was fixed in the bid won by Fruto Elizaga, but say for five years, of course securing therefor the requisite approval of the Provincial Board, as provided by section 2319 of the Revised Administrative Code.

In view of the foregoing, the decisions of the Public Service Commission in these two cases appealed from, are hereby reversed and the proceedings had therein annulled, with costs against the appellees, Doroteo and Fruto Elizaga. Persons and entitles interested in the operation of municipal ferries must first apply to the municipal council concerned.

Paras, C.J., Feria, Pablo, Bengzon, Tuason, Bautista Angelo, and Labrador, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.