

**JUAN M. SERRANO AND SILVER LINERS, INC.,  
PLAINTIFFS-APPELLANTS, VS. MUÑOZ (HI) MOTORS, INC., DM  
TRANSIT CORPORATION, BENITO MACROHON, AS SHERIFF OF  
QUEZON CITY, AND ENRIQUE MEDI...**

*G.R. No. L-25547. November 27, 1967*

Ponente: CASTRO, J.

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**CASTRO, J.:**

The fundamental issue in this appeal is whether the Court of First Instance of Quezon City has jurisdiction over civil case 8835 before it. Disavowing jurisdiction, the court, in two separate orders of July 19 and September 21, 1965, dismissed the complaint against all the defendants (Enrique Medina of the Public Service Commission, Muñoz (Hi) Motors, Inc., DM Transit Corporation, and Benito Macrohon as Sheriff of Quezon City) with costs against the plaintiffs Juan M. Serrano and the Silver Liners, Inc.

According to the allegations of the complaint, Juan M. Serrano was granted by the Public Service Commission (PSC) in case 83104 a certificate of public convenience to operate in Manila and Quezon City eight[1] auto-trucks for passengers and freight. On August 22, 1963 Serrano mortgaged this certificate to Muñoz (Hi) Motors, Inc. (hereinafter referred to as the MHMI), as additional collateral to secure an indebtedness on account of the purchase of four buses. The parties to this chattel mortgage thereafter applied to the PSC for approval thereof. At the instance of the MHMI, the sheriff of Quezon City fore-closed the chattel mortgage of October 24, 1961[2] and that of August 22, 1963, and, on October 31, 1964, executed a certificate of sale in favor of the MHMI as the highest bidder.

On January 7, 1965 the MHMI sold some units and certificates of public convenience, among them, the certificate granted to Serrano in PSC case 83104, to the DM Transit Corporation (hereinafter referred to as the DMTC). Acting on the petition filed jointly by the MHMI and the DMTC on January 22, 1965, the PSC, thru Commissioner Medina, in an order issued on March 4, 1965, provisionally approved the said sale, and authorized the DMTC to operate "under the provisional authority here granted." Serrano moved to have this order set aside.

On March 26, 1965 Serrano sold to the Silver Liners, Inc. (hereinafter referred to as the SLI) the line he was authorized to operate by virtue of the certificate of public convenience issued in PSC case 83104, and authorized the latter to file with the PSC the corresponding application for approval of the said sale.

On April 5, 1965 Commissioner Medina issued an order in the following tenor:

"[t]he certificate of sale clearly mentions the units operated by the judgment-debtor but does not mention that the franchise or certificates of public convenience for the operation of said units are also included in the sale. In view, however, of the manifestation of counsel for DM Transit and Muñoz (Hi) Motors, Inc., to the effect that the certificate of public convenience was included in the notice of sale and that it was the intention of the Sheriff (who is now present in open Court), to sell also the franchise, the Commission believes that, in fairness to all, the hearing of this case should be postponed until JUNE 15, 1965, at 9:00 a.m., to give all the

parties sufficient and ample opportunity to present their evidence, pro and con, in support of their respective allegations, and for the Sheriff, if necessary, to make the corrections if any error has been committed."

At the instance of the MHMI, the sheriff of Quezon City "once more announced the foreclosure of the chattel mortgages dated October 24, 1961 and August 22, 1963," and the sale of among others, "the certificate of public convenience issued in PSC Case No. 83104," to be held on June 14, 1965.

In view of this development, Serrano and the SLI, on June 9, 1965, filed the present complaint the pertinent and important portions of which read:

"6. That the plaintiff, Juan M. Serrano, and the defendant, Muñoz (HI) Motors, Inc., filed the corresponding application for the approval of the chattel mortgage of said certificate with the Public Service Commission. However, before the Public Service Commission could decide the application, the plaintiff, Juan M. Serrano, filed a motion with drawing the same on the ground that the mortgagee, Defendant Muñoz (HI) Motors, Inc., had violated their agreement. Until now the Public Service Commission has not acted on the application for approval of the chattel mortgage of the certificate of public convenience. Neither has it acted on the motion of Juan M. Serrano to withdraw the application."

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"11. That the issuance of the provisional approval, Exhibit 'C', presupposes the existence of a sale and transfer of the certificate of public convenience issued in Case No. 83104 by the Sheriff of Quezon City to Muñoz (HI) Motors, Inc., which is not a fact. Hence the defendant, Enrique Medina, is liable for damages for the issuance of the provisional approval, Exhibit 'C', under Art. 32 of the Civil Code of the Philippines because the plaintiff, Juan M. Serrano, was deprived of his property without due process of law."

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"14. That the announced sale on June 14, 1965 is at once illegal and violative of the rights of the plaintiffs. Unless immediately restrained by this Honorable Court with the issuance ex parte of a writ of preliminary injunction, the plaintiff will suffer great and irreparable injury in addition to what they, especially Juan M. Serrano, have already suffered by reason of the acts above complained of.

"15. That as a consequence of the issuance of the provisional approval, Exhibit 'C', on March 4, 1965 the plaintiffs have been unable to operate the eight (8) units attached to the certificate of public convenience issued in Case No. 83104 and the plaintiff, Juan M. Serrano, has been unable to substitute four (4) of said units as shown by the order of the Public Service Commission in Case No. 65-2654, a certified copy of which being attached as Exhibit 'F'".

\*\* \*\* \*

"WHEREFORE, it is respectfully prayed that judgment be rendered in favor of the plaintiffs and against the defendants by restraining permanently the defendant, Sheriff of Quezon City and his deputies from again foreclosing the chattel mortgages on October 24, 1961 and August 22, 1963 and selling at public auction the chattels mortgaged, especially the certificate of public convenience issued in Case No. 83104, and ordering the defendants, to pay jointly and severally, the plaintiffs the following:

- (a) Actual damages in the amount of P50,390.00 as of June 8, 1965 and daily thereafter at the rate of P560.00;
- (b) Moral damages to Juan M. Serrano in the amount of P10,000.00;
- (c) Exemplary damages in such amount as may be fixed by the Honorable Court;
- (d) Attorney's fees in the amount of P10,000.00, and the costs.

"It is further prayed that there be issued ex parte immediately a writ of preliminary injunction restraining the defendant, Sheriff of Quezon City and his deputies, from proceeding with the announced sale on June 14, 1965 of the chattels enumerated in Exhibit 'E'."

Acting on the complaint and on an urgent motion subsequently filed by the plaintiffs for the issuance of an ex parte writ of preliminary injunction, the court directed the parties to maintain the status quo upon the filing by the plaintiffs of a P5,000 bond, and set the motion for hearing on June 26, 1965. The defendants opposed the motion.

Commissioner Medina, on June 22, 1965, moved for the dismissal of the complaint against him on three grounds: that the CFI has no jurisdiction over not only the subject-matter of the action but as well his person as Public Service Commissioner; that the complaint states no cause of action against him; and that "Article 32 of the Civil Code is not applicable to judicial orders."

The rest of the defendants, on the following day, June 23, filed their answer, in which they alleged, among other things, that the certificate of public convenience issued in PSC case 83104 is included in the chattel mortgage of August 22, 1963; that the PSC had in fact approved the said mortgage; that the said certificate was actually included in the foreclosure sale conducted by the sheriff of Quezon City, although the latter, through inadvertence, failed to mention it in the certificate of sale of October 31, 1964; and that the MHMI has requested the sheriff "to conduct another foreclosure sale in order to supplement and correct the first one." They further alleged that the complaint states no cause of action, and that the plaintiffs are in estoppel and guilty of laches. They accordingly prayed that the complaint be dismissed as against them, and that the sheriff of Quezon City be ordered to proceed with the foreclosure sale. The plaintiffs, on July 8, 1965, opposed the motion to dismiss filed by Commissioner Medina.

By its order of July 19, 1965 the CFI dismissed the complaint as against Commissioner Medina. The plaintiffs moved to have this order set aside or clarified, because it did not specify any ground for the dismissal. Per its order of August 23, 1965 the CFI held in abeyance consideration of the plaintiffs' prayer for preliminary injunction, to afford the plaintiffs opportunity to file a motion for reconsideration of the order of July 19, and to give the rest of the defendants equal opportunity to file motions to dismiss, "so that the court can make a clear cut ruling on the question of jurisdiction over the instant case."

On August 24, 1965 the MHMI and the DMTC moved to dismiss the complaint on the ground that the court has no jurisdiction over the subject-matter of the action. The plaintiffs thereafter filed their opposition.

On September 21, 1965 the CFI dismissed the complaint for lack of jurisdiction over the subject-matter thereof; on the following October 16, it denied the plaintiffs' motion to set aside the said order.

Hence the present recourse.

In *Perez Cardenas vs. Camus*,<sup>[3]</sup> we held that jurisdiction over the subject-matter is determined by the allegations of the complaint, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein -- a matter that can be resolved only after and as a result of the trial. Nor may the jurisdiction of the court be made to depend upon the defenses set up in the answer or upon the motion to dismiss, for, were we to be governed by such rule, the question of jurisdiction would depend almost entirely upon the defendant.

As can be gleaned from the portions of the complaint hereinbefore quoted, namely, paragraph 11 in relation to paragraph 15, and paragraph 6 in relation to paragraph 14, three distinct issues present themselves for resolution.

1. Paragraphs 11 and 15 squarely assail the PSC order of March 4, 1965. According to the appellants, this order "presupposes the existence of a sale and transfer of the certificate of public convenience issued in Case No. 83104 by the Sheriff of Quezon City to Muñoz (Hi) Motors, Inc., which is not a fact", because the said certificates of

public convenience was not mentioned in the sheriff's certificate of sale of October 31, 1964; the PSC order approving provisionally the sale by the MHMI in favor of the DMTC, of, among others, the said certificate, and authorizing the latter to operate the line covered thereby, thus deprived Serrano of his property "without due process of law", and prevented the appellants from operating the eight units attached to the said certificate and Serrano from substituting four of the said units.

In sum, therefore, paragraphs 11 and 15 assail the PSC order of March 4, 1965 as erroneous because the MHMI could not have legally transferred the certificate of public convenience in question to the DMTC for the reason that the sheriff's certificate of sale of October 31, 1964 did not include the said certificate of public convenience among the properties sold to the MHMI in the foreclosure sale.

It is our view that the resolution of this aspect of the case falls within the exclusive province of the PSC.

Under section 20(g) of the Public Service Law,[4] the PSC is the body invested with the power and authority to approve a sale or transfer of a certificate of public convenience. As we emphasized in *Garcia vs. Bonifacio, et al.*,[5] that

"[I]f as appellant represents, the certificate sold to him was later illegally transferred to Peña, who now holds the Commission's approval and certificate, there is no better place than the Commission itself to thresh out the respective rights of the parties, bearing in mind that said Commission is the only entity empowered to withdraw the certificate from Peña and to transfer it to herein plaintiff or grant him a new certificate."

We have indeed sustained the power and authority of the PSC (a) to approve provisionally the transfer of a certificate of public convenience where the conditions laid down by section 20(g) are satisfied,[6] and (b) to grant provisional authority to a vendee to operate a franchise pending determination of the legality of the sale.[7]

Entirely apart from the above considerations, we note from the order of March 4, 1965 that Serrano has filed an "urgent motion to set (it) aside". Orderly procedure demands that the PSC pass upon this phase of the controversy; from an adverse resolution thereon, the appellants may yet appeal to this Court.[8]

"[t]he commission having jurisdiction to determine whether a corporation has the right to do or not to do a thing for which the commission's approval is sought, orderly procedure requires that the commission pass upon that phase of the controversy before the courts adjudge it. The obvious reason for this is stated in *St. Clair Borough v. To-maqua & Pottsville Elec. Ry. Co.*, 259 Pa. 462, 103 A. 287, 289, 5 A.L.R. 20: 'Otherwise different phases of the same case might be pending before the commission and the courts at one time, which would cause endless confusion.'"[9]

The order of the PSC did not deprive Serrano of his property[10] "without due process of law". The order is provisional in nature, "may be modified or revoked by the Commission at any time",[11] is "subject to whatever action that may be taken on the basic application" for the sale and transfer filed by the MHMI in favor of the DMTC, and is "valid only during the pendency of said application, but not beyond SIX (6) MONTHS from the date hereon (March 4, 1965)," which period, by the way, has already expired. Neither were the appellants deprived of their day in court. For, the PSC, in its order of April 5, 1965, clearly stated that "in fairness to all" and "to give all the parties sufficient and ample opportunity to present their evidence, pro and con, in support of their respective allegations", "the hearing of this case should be postponed until June 15, 1965, at 9:00 a.m."

2. The CFI likewise did not err in dismissing the complaint, even if it prayed for damages against Commissioner Medina, for failure to state a sufficient cause of action. Article 32 of the Civil Code, relied upon by the appellants in support of their claim for damages, provides in its last paragraph that the responsibility for damages "herein set forth is not demandable from a judge unless his act or omission constitutes a violation of the Penal Code or other penal statute." We do not now decide -- as we believe we are not called upon to do so -- whether article 32 of the

Civil Code may be utilized as the legal basis of an action for damages against a PSC commissioner. But assuming that the said provision of law does authorize recovery of damages from a member of the PSC in proper cases, the dismissal must yet be sustained. Nowhere does the complaint allege that, in issuing the order of March 4, 1965, Commissioner Medina did so in violation of the Revised Penal Code or any other penal statute. It does not charge him with knowingly rendering an unjust judgment,[12] or rendering an unjust judgment by reason of inexcusable negligence or ignorance,[13] or knowingly rendering an unjust interlocutory order or decree,[14] or transgressing any other penal law.

3. Finally, the CFI did not err in dismissing the complaint against the rest of the defendants. The complaint does not state a cause of action against them. Paragraph 6 thereof alleges that Serrano filed a motion with the PSC withdrawing the application filed by him and the MHMI for approval of the chattel mortgage over the certificate of public convenience in question, "on the ground that the mortgagee, Defendant Muñoz (HI) Motors, Inc., had violated their agreement", and, on that basis, paragraph 14 asserts that "the announced sale on June 14, 1965 is at once illegal and violative of the rights of the plaintiffs", and that if the sheriff of Quezon City be not immediately restrained from proceeding with the intended foreclosure and sale of the said certificate, they "will suffer great and irreparable injury". These averments are altogether too imprecise and therefore cannot be dignified as constituting a legally sufficient statement of the "ultimate facts" required in the formulation of a cause of action; they are at best mere conclusions of law which, obviously, cannot take the place of "ultimate facts." [15]

ACCORDINGLY, the orders of July 19 and September 21, 1965, dismissing the complaint, are affirmed, at plaintiffs-appellants' cost.

Dizon, Acting C.J., Makalintal, Bengzon, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.  
Concepcion, C.J., and Reyes, J.B.L., J., on official leave.

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[1] According to the order of the PSC of June 29, 1965 this certificate is good for only four units (see pp. 13 to 17 of brief for the defendant-appellee Enrique Medina).

[2] This chattel mortgage covers indebtedness relative to the sale of transportation units by the MHMI to Serrano.

[3] L-17191, July 30, 1962.

[4] "Acts requiring the approval of the Commission. Subject to established limitations and exceptions and saving provisions to the contrary, it shall be unlawful for any public service or for the owner, lessee or operator thereof, without the approval and authorization of the Commission previously had -

"(g) To sell, alienate, mortgage, encumber or lease its property franchises, certificates, privileges, or rights, or any part thereof; or merge or consolidate its property, franchises, privileges or rights, or any part thereof, with those of any other public service. The approval herein required shall be given, after notice to the public and after hearing the persons interested at a public hearing, if it be shown that there are just and reasonable grounds for making the mortgage or encumbrance, for liabilities of more than one year maturity, or the sale, alienation, lease, merger, or consolidation to be approved, and that the same are not detrimental to the public interest, and in case of a sale, the date on which the same is to be consummated shall be fixed in the order of approval: Provided, however, that nothing herein contained shall be construed to prevent the transaction from being negotiated or completed before its approval or to prevent the sale, alienation, or lease by any public service of any of its property in the ordinary course of its business."

[5] 104 Phil. 656.

[6] Dagdag, Jr., et al. vs. Public Service Commission, et al., 104 Phil. 162.

[7] Orlanes and Banaag Trans. Co. vs. Public Service Commission, 57 Phil. 624.

[8] Sec. 35, Public Service Law.

[9] Pittsburgh Rys. Co. v. Public Service Commission, 174 A. 670, 672; see also In State ex rel. and to Use of Cirese, et al. vs. Ridge (1940), 138 S.W. 2d 1012, 1015 and cases therein cited.

[10] Certificates of public convenience are valuable assets. They are included in the term "property". (Raymundo vs. Luneta Motor Co., 58 Phil. 889).

[11] See note 6.

[12] Art. 204, R.P.C.

[13] Art. 205, R.P.C.

[14] Art. 206, R.P.C.

[15] See Rodriguez vs. Tan, 91 Phil. 724, 726; Remonte, et al. vs. Bonto, et al., L-19900, Feb. 28, 1966; Llanto vs. Ali Dimaporo, et al., L-21905, March 31, 1966; and the cases therein cited.

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