

ALEJANDRO D. ALMENDRAS, PETITIONER, VS. ROMULO V. RAMOS, RESPONDENT.*G. R. No.L-4201. October 22, 1951*

Ponente: PARAS, C.J.

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PARAS, C.J.:

By resolution No. 290 dated November 15, 1947, the municipal council of Sta. Cruz, Davao, granted to Romulo V. Ramos (herein respondent) an electric franchise covering the entire municipality, the grant having been approved by the Provincial Board of Davao by resolution No. 185. The respondent in due time filed with the Public Service Commission an application (Case No. 31457) for the approval of the franchise and the issuance of the corresponding certificate of public convenience and necessity. In its decision of September 25, 1948, the Commission approved the franchise and issued the necessary certificate of public convenience and necessity, authorizing the respondent to install, maintain and operate an electric light, heat and power service in the municipality of Sta. Cruz. The requisite approval of the President of the Philippines was obtained on October 15, 1948. Pursuant to his certificate, the respondent was first authorized by the Public Service Commission to operate only in the barrio of Digos and in the poblacion of Sta. Cruz, as shown in the plans of the distribution systems submitted by him and approved by the Commission.

On June 25, 1949, the respondent filed with the Public Service Commission an application (Case No. 50771) for authority to install an electric plant in the barrio of Padada, municipality of Sta. Cruz. On June 28, 1949, Alejandro D. Almendras (herein petitioner) filed with the Commission an application (Case No. 50831) for the approval of an electric franchise covering the barrio of Padada granted to him by the municipal council of Sta. Cruz by resolution No. 82 dated April 18, 1949, and approved by the Provincial Board of Davao by resolution No. 770 dated May 31, 1949. As the barrio of Padada became a municipality by Executive Order No. 236 dated July 1, 1949, the petitioner, after having been granted by the new municipality of Padada an electric franchise which was later approved by the Provincial Board of Davao by resolution No. 942 dated July 28, 1949, filed with the Public Service Commission an amended application for the approval of said franchise and the issuance of the corresponding certificate of public convenience and necessity, to operate an electric light, heat and power service in the newly created municipality of Padada. After hearing jointly the application of the respondent (Case No. 50771) and the application of the petitioner (Case No. 50831), the Public Service Commission rendered a single decision granting respondent's application and denying that of the petitioner. The latter has filed the present petition for review.

Petitioner's various arguments boil down to the main proposition that respondent's franchise covering the entire municipality of Sta. Cruz (including the former barrio of Padada, now a municipality) is not exclusive, and the denial by the Public Service Commission of petitioner's application is an infringement of the legislative function of a municipal corporation. We may concede that a franchise cannot be exclusive, because the Constitution (Article HV, Section 8) provides that no franchise, certificate, or any other form of authorization for the operation of a public utility shall be exclusive in character or shall be granted to any individual, firm or corporation, except

under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the public interest so requires. We may also concede that, under Act No. 667, as amended by Act No. 1022, a municipal council has the power to grant electric franchises, subject to the approval of the provincial board and the President. However, under section 16 (b) of Commonwealth Act No. 146, as amended, the Public Service Commission is empowered "to approve, subject to constitutional limitations, any franchise or privilege granted under the provisions of Act Numbered Six Hundred and Sixty-Seven, as amended by Act Numbered One Thousand and Twenty-Two, by any political subdivision of the Philippines when, in the judgment of the Commission, such franchise or privilege will properly conserve the public interests, and the Commission shall in so approving impose such conditions as to construction, equipment, maintenance, service, or operation as the public interests and convenience may reasonably require, and to issue certificates of public convenience and necessity when such is required, or provided by any law or franchise." The efficacy of a municipal electric franchise arises, therefore, only after the approval of the Public Service Commission, and the latter, in denying petitioner's application, cannot be said to have infringed the legislative prerogative of the municipal council of Padada, because the Commission merely exercised a power granted by law.

In this case there is no reason for holding that the Public Service Commission was arbitrary in its judgment. Respondent's franchise, as granted by the municipal council of Sta. Cruz on November 15, 1947, covers the entire territory of the municipality, including of course the former barrio of Padada. The respondent, who has already made considerable investment in supplying electric service in the barrio of Digos and in the poblacion of Sta. Cruz, and who has complied with the terms and conditions of his franchise and certificate, is not applying for another franchise, but is merely seeking in effect to extend his field of operation within the territory already covered by his present franchise. The respondent is financially able, now an experienced operator, and has so far rendered efficient and satisfactory service.

The petitioner contends that "since the municipal officials of Sta. Cruz and later of Padada, deemed it necessary for the convenience of their constituents that franchise should be issued to petitioner, all that the Commission should have done was to respect such official judgment by confirming the grant made to petitioner." If this contention were correct, the approval of the Public Service Commission required by section 16 (b) of Commonwealth Act No. 146, as amended, would be an empty and useless formality. We cannot attribute to the lawmakers an intention to lay down a rule which, though entirely purposeless, results in waste of time and money.

The appealed decision will therefore be affirmed, and it is so ordered, with costs against the petitioner.

Feria, Pablo, Bengzon, Padilla, Tuason, Reyes, Jugo and Baustista Angelo, JJ., concur.

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