

RED LINE TRANSPORTATION CO. INC., PETITIONER, VS. HERMOGENES TARUC, RESPONDENT.

G.R. No. L-6179. November 29, 1954

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for review of a decision of the Public Service Commission authorizing respondent to operate 12 auto-trucks on the lines Jones-San Vicente via Cabatuan and Aparri, Jones-San Vicente via Echague and Aparri, and Cabanatuan-Dagupan.

On August 21, 1951, Hermogenes Taruc, respondent herein, filed with the Public Service Commission an application for authority to operate an auto-bus service of 26 units on the following lines:

- "1. Cabanatuan City - Dagupan City
2. Camiling (Tarlac) - Ilagan (Isabela)
3. Lingayen (Pangasinan) - Jones (Isabela)
4. Manila - Malig (Isabela)
5. Maddela (Nueva Vizcaya) - San Vicente (Cagayan) via two routes, and
6. Lingayen (Pangasinan) - Malig (Isabela)"

(Petitioner's brief, p. 1, G. R. No. L-6260)

The application was opposed by several pre-war operators, among them, the Red Line Transportation Co., Inc. who alleged that the service applied for is a duplication of the service rendered by it and, for that reason, will not promote public interest but will only involve the oppositor in a ruinous competition. After the applicant and oppositor had presented their evidence, Commissioner Paredes, who was then acting for the Commission, the other two commissioners being on leave, rendered a decision granting in toto the authority applied for. This decision was later on concurred in nunc pro tunc by Commissioner Prieto. Within the reglementary period, the oppositor filed a motion for reconsideration challenging the authority of the Commission to grant a certificate of public convenience over the line Kaddela (Nueva Vizcaya)-San Vicente (Cagayan), on the ground that there was no route open to motor vehicle traffic to the municipality of Maddela. On October 3, 1952, Commissioner Paredes entered a resolution denying the motion; but, Commissioner Prieto, in a concurring and dissenting opinion, which was concurred in by Commissioner Ocampo, modified the decision rendered on May 22, 1952, (a) by denying petitioner's application as regards the second, third, fourth, and sixth lines above mentioned; (b) by limiting the fifth line-which was originally Maddela Nueva Vizcaya)-San Vicente (Cagayan) - to Jones-San Vicente via Cabatuan; Jones-San Vicente via Echague; and (c) by reducing the authorized equipment from 26 to 12 units.

Dissatisfied with this concurring and dissenting opinion, the oppositor interposed the present petition for review.

It should be recalled that after the Public Service Commission had granted in toto the application of respondent to operate an auto-bus service on the lines described in his application, and the oppositor, now petitioner herein, had challenged the authority of said Commission to grant the authority requested to operate a line between Maddela (Nueva Vizcaya) and San Vicente (Cagayan), because there was no road open to motor vehicle traffic leading to the municipality of Maddela, the decision was modified by striking out Maddela and substituting Jones therefor as the terminal of the proposed line. Petitioner now contends that this cannot be done for the following reasons: (1) the respondent did not apply for the Jones-San Vicente line; (2) the oppositor was not given an opportunity to present evidence having Jones as terminal point; (3) Jones is not an intermediate point of the Maddela-San Vicente line; and (4) there is no evidence in the record showing the necessity of operating a line from Jones.

While the record on this point does not appear clear, the fact however remains that the new line granted, Jones-San Vicente, is comprised within the line Maddela-San Vicente originally applied for, and the change was made necessary in view of the challenge hurled by petitioner against the Commission based on the fact - which was overlooked by the Commission - that there was no road open to motor vehicle traffic going to the municipality of Maddela. The evidence shows that Maddela is a new town situated east of Jones near the boundary of Nueva Vizcaya and Isabela, and because of the fact that Maddela could not be considered as a terminal point because of the inconvenience above pointed out, the Commission deemed it wise to substitute Jones for Maddela as the terminal of the proposed line. We find no plausible reason to disturb this finding it appearing that the oppositor does not operate any bus service on the proposed lines although portions thereof "parallel with short, broken portions" of the lines operated by the oppositor. "We are satisfied", according to Commissioner Paredes, "that the evidence of the applicant in this regard reasonably supports the decision granting him the certificate of public convenience therefore, the Commission having in mind that the convenience of the public is of paramount consideration." There is no pretense that this finding is not supported by the evidence, for in effect petitioner only disputes its sufficiency, and considering that this is a petition for review, or an appeal by certiorari, said finding cannot now be disturbed.

Wherefore, the decision appealed from is hereby affirmed, with costs against petitioner.

Paras, C.J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Labrador, and Reyes, J.B.L., JJ. concur

Mr. Justice Concepcion (on leave)

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