

**BATANGAS LAGUNA TAYABAS BUS COMPANY, PETITIONER, VS.
GUILLERMO TIBAY AND THE PUBLIC SERVICE COMMISSION
(ACTING THRU ASSOCIATE COMMISSIONER JOSUE CADIAO AND
COMMISSIONER GREGORIO...**

G.R. NO. L-32499. February 28, 1974

Ponente: ANTONIO, J.

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ANTONIO, J.:

Petition for certiorari to annul and set aside the order of the Public Service Commission, dated August 26, 1970, granting provisional authority to respondent Guillermo Tibay to operate on the extended line Siniloan, Laguna-corner E. de los Santos and Shaw Boulevard; via Mabitac and vice-versa, with the use of four (4) units, for a period of six (6) months from the date of said order.

Petitioner Batangas Laguna Bus Company alleged in its petition that respondent Commission gravely abused its discretion in granting the provisional authority in question on the following grounds: (a) no formal motion in writing with proper notice to petitioner was filed by respondent Guillermo Tibay for the issuance of the aforesaid provisional authority other than a brief allegation in his basic application with respondent Commission, dated July 2, 1970 (Case No. 70-4069), that "pending final determination of this case, this petition be provisionally approved," and petitioner was not accorded opportunity to oppose the grant of provisional authority; (b) the said provisional authority was granted just nine (9) days after the initial hearing on August 17, 1970, at which one witness testified for the applicant, and eight (8) days before the next scheduled hearing; and (c) there is no showing of an urgent public need for the issuance of the aforesaid provisional authority.

Respondent Guillermo Tibay, in his answer, contended (a) that respondent Public Service Commission had power to grant the challenged provisional authority, and, contrary to petitioner's allegation, he (respondent Tibay) in fact prayed for the issuance of provisional authority to operate in his application, which was not specifically opposed by petitioner in its written opposition; (b) that petitioner was notified of the hearing for the issuance of provisional authority to operate as early as August 15, 1970, or two (2) days before the date of actual hearing, at which hearing respondent Tibay manifested that he was presenting evidence in support of his main application as well as his prayer for the issuance of provisional authority to operate, which manifestation was not objected to by petitioner; (c) that evidence was actually submitted by respondent Tibay to support his main application as well as his petition for provisional authority to operate, consisting of (1) the testimony of Councilor Jacinto A. de los Reyes of Siniloan, Laguna, to the effect that there is urgent need for the grant of a provisional authority to respondent Tibay in view of the inadequacy of transportation in the area covered by the application; and (2) resolutions of the Municipalities of Mabitac and Siniloan, of the Province of Laguna, attesting to the fact that there is urgent need of transportation in the area covered by Tibay's application which would sufficiently justify the issuance to the applicant of provisional authority to operate; and (d) that as stated in the questioned order of respondent Commission, the provisional authority was granted on the basis of said Commission's finding that said case being contested "*** will take sometime before the same may be submitted for final action," and on the basis

of the evidence submitted by respondent Tibay that petitioner "has no service from terminal to terminal on the line applied for; that there are plenty of passengers commuting on the line; that no additional investment is needed by applicant Tibay to operate this proposed extension," there is therefore "a public need for the proposed service and *** public convenience would best be promoted by the grant" of provisional authority to applicant to operate.

On November 16, 1973, this Court issued a resolution stating that since the provisional permit issued on August 26, 1970 by respondent Commission to private respondent was only for six (6) months from the date of said order, and as the only purpose of the present petition for certiorari with preliminary injunction is to annul the order granting the aforementioned provisional permit, the Court resolved to require herein petitioner to show cause within ten (10) days from receipt of notice thereof why the petition for certiorari should not be considered moot by reason of (a) the promulgation of the decision, if any, on the merits of the basic application, filed with the respondent Commission, or (b) the expiration of said provisional permit. Copies of this resolution were served on petitioner, through counsel, on November 21, 1973, and on private respondent, through counsel, on the same date. The petitioner however failed to comply with said resolution. Considering that any judgment hereon cannot have any practical effect in view of the expiry date of the effectivity of the challenged order, the Court deems the case already moot.

WHEREFORE, in view of the foregoing, the Court Resolved to DISMISS the instant petition without pronouncement as to costs.

Zaldivar, (Chairman), Fernando, Barredo, Fernandez, and Aquino, JJ., concur.

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