

HERMOGENES TARUC, PETITIONER, VS. BACHRACH MOTOR CO., PANGASINAN TRANSPORTATION CO., AND REDLINE TRANSPORTATION CO., RESPONDENTS.

G.R. No. L-6260. May 26, 1954

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal by certiorari, taken by Hermogenes Taruc, from a decision of the Public Service Commission.

It appears that, on or about August 21, 1951, Hermogenes Taruc filed therein an application for authority to operate an auto-bus service of twenty-six (26) units over six lines, with the following terminals:

- Cabanatuan City—Dagupan City
- Camiling (Tarlac)—Ilagan (Isabela)
- Lingayen (Pangasinan)—Jones (Isabela)
- Manila—Malig (Isabela)
- Maddela (Nueva Vizcaya)—San Vicente (Cagayan) via two routes, and
- Lingayen (Pangasinan)—Malig (Isabela) (Petitioner's brief, p. 1)

Said application was opposed by the Bachrach Motor Co., the Pangasinan Transportation Co. and the Redline Transportation Co. In due course, Hon. Quintin Paredes, Jr., Associate Commissioner of Public Service, then Acting Commissioner thereof—Commissioner Feliciano Ocampo and Senior Associate Commissioner Gabriel P. Prieto, being on leave, at the time—rendered a decision, dated May 22, 1952, overruling said oppositions and granting in toto the aforementioned application of appellant Taruc. Later on, or on June 4, 1952, Senior Associate Commissioner Prieto, who had meanwhile reported for duty, filed an opinion concurring nunc pro tunc in said decision of Associate Commissioner Paredes. Within the 30 days period therein granted, however, appellant was able to register only eleven (11) of the twenty-six (26) units in question, for which reason he sought an extension of time to register the remaining fifteen (15) units. Action upon this request for extension of time was deferred by Commissioner Ocampo, pending resolution of the motions for reconsideration filed in the meantime by said oppositors. Subsequently, on or about October 3, 1952 acting upon said motions for reconsideration, Associate Commissioner Paredes rendered an opinion denying the same and adhering to his original decision. However, Senior Associate Commissioner Prieto rendered a concurring and dissenting opinion, which was concurred in by Commissioner Ocampo, the effect of which concurring and dissenting opinion was to modify the original decision, as follows:

- (a) By denying petitioner's application as regards the 2nd, 3rd, 4th and 6th lines above mentioned;
- (b) By limiting the fifth line—which was originally Maddela (Nueva Vizcaya)—San Vicente (Cagayan)—to Jones

(Isabela)-San Vicente (Cagayan); and

(c) By reducing the authorized equipment from twenty- six (26) units to twelve (12) units.

A reconsideration of the decision, as thus amended, having been denied, Taruc now seeks a review, by certiorari, of said amended decision, upon the ground that:

I

"The Public Service Commission erred in holding that petitioner does not possess sufficient assets to acquire and operate 26 units authorized him in the original decision.

II

"The Public Service Commission erred in holding that petitioner adduced insufficient evidence an the lines Camiling-Ilagan, Lingayen-Jones, Maddela-San Vicente, and Manila-Malig, to warrant the grant of a certificate of public convenience over the same,

III

"The Public Service Commission erred in modifying its decision dated May 22, 1952."

Referring to the first assignment of error, Taruc testified that the 26 units applied for by him would cost P182,000.00 for the chasis alone, and P10,400 for the bodies, or the total sum of P 192,400; and that he had only P7,000 in cash, in addition to the following real property:

Area and Kind of Land

Market Value Estimated by Appellant

Assessed Value

(a) Twenty-two (22) Hectares of tobacco land in Santiago, Isabela

P22,000.00

P2,130.00

(b) Ten (10) hectares of riceland in the same place

10,000.00

2,000.00

(c) Five and a half (5%) hectares of riceland in Munoz, Nueva Ecija

8,000.00

2,000.00

Ten (10) hectares of riceland in Mayantoc, Tarlac

8,000.00

2,000.00

All together these lands, according to petitioner's testimony, are worth P48,000, although its aggregate assessed value is P8,130 only. If we add to these sums the P7,000 in cash in appellant's possession, the result is that his

assets range from P15,130. to P55,000, if his testimony were taken on its face value. In addition, however, to the sum of P192,000 which is the initial cost of the 26 units applied for by appellant, he would have to establish, operate and maintain a garage and a repair shop, acquire the necessary equipment, spare parts, tires, etc., pay the corresponding registration fees, licenses and taxes, and defray other incidental expenses. It is thus obvious that appellant's assets are grossly insufficient to permit the acquisition, maintenance and adequate operation of said 26 units. Indeed, it would appear that although, before the institution of this case, appellant had been authorized to operate other lines, he eventually failed to do so, in violation of the certificate of public convenience issued in his favor. What is more, even the lines which the amended decision appealed from had authorized him to operate, were subsequently abandoned by him according to a petition for cancellation filed by one of the oppositors herein, which is still pending determination in the Public Service Commission. Accordingly, the first assignment of error is clearly untenable.

This renders it unnecessary to discuss the other assignments of error made in petitioner's brief. Suffice it to add that said assignments of error hinge on whether the services being rendered by duly authorized operators of public utility in the four lines which were denied to appellant and in a portion of the fifth line eliminated by the amended decision satisfy the requirements of public convenience or public interest. Said amended decision impliedly resolved this question in the affirmative. Upon the other hand, appellant does not deny the existence in the record of competent evidence in support of said conclusion. In effect, however, he now assails the sufficiency of the aforementioned evidence. Such question can not be entertained on appeal by certiorari, in which the conclusions of fact of the Public Service Commission which can not be disturbed so long as the same are borne out by some evidence, as in the case at bar.

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

Paras, C. J., Pablo, Bengzon, Montemayor, Reyes, A., Jugo, Bautista Angelo, and Labrador, JJ., concur.

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