

MIGUEL M. MENDOZA, PETITIONER, VS. THE PUBLIC SERVICE COMMISSION, RICARDO SILVERIO, ALEX F. DE GUZMAN, ROGELIO MANALO, ESTELLA SERAFICA, FRANCISCO OLALIA, DOLORES VERGARA, LOREN...*G.R. Nos. L-31145-47. November 19, 1981*

Ponente: FERNANDO, C.J.

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The procedural due process objection was the basis for this certiorari proceeding with preliminary injunction. Petitioner alleged that without the hearing required, the amendment sought, which was considered as uncontested, as granted by respondent Public Service Commission. Thus the private respondents therein named[1] were allowed "to operate their taxicabs within the City of Manila and Suburbs and from said place to any point in the Island of Luzon accessible to motor vehicles and vice versa, but not to exceed a total of six hundred (600) taxicab units to be apportioned to the petitioners." [2] There was, in addition, a second cause of action based on the same ground that a proposal by a second group of private respondents[3] to convert a certificate of public convenience provincial taxicab services into Manila and suburbs and that notwithstanding the reservation on the part of a special counsel from the Department of Justice who reserved his right to file an opposition in behalf of the public with the hearing being postponed so that the case could be heard jointly with the earlier application that gave rise to the first cause of action "without any notice to petitioner, and to other oppositors, of any hearing subsequent to July 16, 1969, respondent Public Service Commission, thru Commissioner Enrique Medina, on July 29 1969, rendered a decision stating: 'At the hearing of the petition, only the Association of Taxicab Operators of Manila and Suburbs, Manila Yellow Taxicab Co., Inc., International Transportation Co., Inc., Rosario C. Vda. de Monserrat and Enrique C. Monserrat, Jr. appeared at said hearing through counsel. However, at the last hearing, Atty. Rodolfo M. Medina withdrew the opposition in behalf of his clients, while the others did not appear to contest this petition. With respect to the opposition of Ildefonso Tambunting, it appears that it was filed out of time that no copy of said opposition was furnished herein petitioners; and, that not even he nor his counsel was present when the case was called for hearing. With their withdrawal and the absence and manifest lack of interest of the other oppositors, this petition is therefore considered as uncontested.' and provides in its dispositive part, thus: 'In view of the foregoing considerations this Commission finds that there is a public need for the regular operation of additional taxi units in the Greater Manila area; that the grant of this petition will meet this public need; that the grant will not pre-judice the riding public, but will on the contrary, best promote and protect public convenience and interest. Consequently, the instant petition maybe, as it hereby [Granted].'" [4] It was admitted by petitioner that motions for reconsideration were filed with reference to the above assailed decision. [5] It is further the submission of petitioner that instead of the matter being uncontested, there was insistence on his part to adduce evidence to the claim of public respondent that there was no such necessity for the amendment and the conversion of the certificates of public convenience.

The Court by resolution required respondents to file an answer to the petition and further issued a temporary

restraining order. In the answer filed by the principal private respondent Ricardo Silverio, it was stressed that instead of coming directly to this Court by this certiorari proceeding, the appropriate remedy would have been one of appeal. It was likewise pointed out that on the merits, there was no question that the action taken by respondent Public Service Commission through the then Commissioner Josue Cadiao could not be considered as a denial of procedural due process as there was default on the part of petitioner Mendoza. Mention was likewise made that the Association of Taxicab Operators in Manila and Suburbs withdrew their opposition as well as other oppositors. There was subsequently an amended petition, but reference was only made to petitioner withdrawing his motion for recon-sideration as he sought direct relief to the Supreme Court and that there was a subsequent amendment by the same Commissioner Cadiao in effect granting authority to seventeen private respondents to operate 306 units of their taxicabs in addition to the 640 units originally granted, again without any previous hearing or notice thereof. There was then clearly a significant legal question raised, this on the assumption that the facts would demonstrate that the claim of petitioner was meritorious. Under such circumstances, the admission by petitioner that there was a motion for reconsideration, which ordinarily would suffice to constitute a defense to a procedural due process objection, was not deemed decisive. What was considered by this Court as deserving of further attention and scrutiny was the practice followed by respondent Commission that could, and as petitioner pointed out, did result in a party not being given the opportunity to be heard. That could be viewed as an improvident exercise of authority, stigmatized, and correctly so, as violative of the due process clause.[6] The parties were duly heard, memoranda submitted, and the case then submitted for decision. There is, however, no need for ruling on the question raised. Soon after, martial law was declared. Under a Presidential Decree issued less than four months later, the Public Service Commission was abolished.[7] It created a Board of Transportation in its place. Since then, this governmental agency has been entrusted with the functions formerly pertaining to the defunct respondent Commission. No use-ful purpose would thus be served by a decision on the merits.

WHEREFORE, this case is dismissed for being moot and academic. No costs.

Barredo, Aquino, Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

[1] The private respondents are: Ricardo Silverio, Rogelio Manalo, Estella Serafica, Francisco Olalia, Dolores Vergara, Lorenzo Yosuco, Faustino Canchela, Felisa Tolen-tino, Angel Malabanan, Eduardo Flaminiano, Guadalupe Vergara, Genoveva Oñate, Caridad dela Cruz, Petronilo Echevaria, Marciano Mauricio, Patrocinio Lorenzo, Amparo Lomuntad, E. Renolayan & Josefina Tarosa, Rizal Taxi Corp., Cesar Rodriguez, Lexington Layug, Milagros Paraiso, Estella Mendoza, Jojo Taxi, Inc., Teresita Afan, Eliseo Siopongo, Antonio Vide, Teodoro Rongo, Severa Gregorio, Eduardo Tuason, Pedro Estela, Carmelo Valera, Cristina de la Cruz, Lilia Villareal, Adelaida Olalia, Julia Manego, Cristino Quimpo, Elias Mendez, Elena Reyes, Generoso Gerundio and Mariquita Vergara.

[2] Petition, par. 11, Annex O. Par. 17 of the petition reads as follows: "That on October 21, 1969, an order dated August 6, 1969, signed by Commissioner Cadiao, was filed with the Secretary of the Commission, approving an alleged application of one Alex F. de Guzman for the con-version of his 40 units of taxicabs from 'provincial' to 'city' thus, transferring the base of operations of said taxicabs from Malabon, Rizal, to the City of Manila, when said Alex de Guzman is not an original applicant in Case No. 69-2926, and which amounted to an amendment of the decision, without any previous hearing, nor notice there-of, copy of said order is attached here-to as Annex 'X'."

[3] The second group of private respondents are: Alberto Alonso, Petronila Zafra, Loida Cajucom, Jaime D. Reyes, Maura Mendoza, Asuncion Castro, Ragang Trans-portion Co., Inc., Embee Transportation Co., Inc. and

Jojo, Incorporated (Velvet Taxicab, Inc.).

[4] Ibid, par. 24, Annex DD.

[5] Ibid, pars. 12, 15, 29 and 30.

[6] Cf. *Morrero v. Bocar*, 66 Phil. 429 (1938).

[7] Presidential Decree No. 101 (1973). Cf. *Arrow Transportation Corporation v. Board of Transportation*, L-39655, March 21, 1975, 63 SCRA 193.

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