

**LA MALLORCA AND PAMPANGA BUS COMPANY, INC., PETITIONERS,  
VS. CIRILO D. MENDIOLA, RESPONDENT.***G.R. No. L-19558. April 29, 1966*

Ponente: BENGZON, J.P., J.

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An application was filed with the Public Service Commission on February 1, 1962 by Cirilo D. Mendiola to operate four (4) units of jitneys by TPU (now PUJ) service on the San Fernando-Guagua line in Pampanga. It was opposed by La Mallorca and the Pampanga Bus Co.—two services under joint management—which alleged that there was no need for the services applied for in view of the adequate and efficient service already being rendered by them.

The Public Service Commission, on February 16, after hearing, rendered a decision authorizing the applicant to operate two (2) units of jitneys by PUJ service at the aforesaid San Fernando-Guagua line. From said decision the oppositors appealed to this Court by filing on March 23, 1962 the instant petition for review.

Subsequently, it was discovered that six exhibits for the oppositors (Exhs. 1, 1-A, 1-B, 1-C, 1-D and 1-E)—consisting of reports of an observer on the volume of motor vehicles for hire and passenger load on the San Fernando-Guagua line—were lost in the Public Service Commission and thus are not among the records elevated to this Court.

A reconstitution of the lost exhibits was ordered by resolution of this Court on July 8, 1963. Reconstitution however failed because of lack of duplicates and inability of the witness to recollect the evidence. Petitioners thereupon moved to set aside the appealed decision and remand the case for taking of evidence anew.

In an extended resolution on November 29, 1963, we denied said motion. Speaking thru Mr. Justice J.B.L. Reyes, this Court said that its sole mission in this case is to ascertain whether it clearly appears that there was evidence before the Public Service Commission to reasonably support its decision that the present number of vehicles operating on the San Fernando-Guagua line is not sufficient to cope with the number of passengers on said line. It further stated that what the sole issue called for was "a pronouncement that primarily depends on the character of the applicant's evidence, which has not been lost" because in cases of this nature we are not supposed to weigh conflicting evidence and substitute our own conclusions thereon.[1]

Accordingly, the appeal is submitted on the issue of whether the Public Service Commission's finding that the present number of units operating on the San Fernando-Guagua line is not sufficient to cope with the number of passengers therein, is supported by substantial evidence.

From the applicant's evidence, testimonies of passengers, it is clearly shown that the buses and jitneys serving the San Fernando-Guagua line are usually loaded to standing capacity and many people are left along the route waiting for available transportation (Record, pp. 82-83, 94-95). In fact, petitioners' own witness, Policarpio Pineda, testified that private jeeps haul and receive passengers along the afore-stated line (Record, p. 132), a clear

indication that the authorized services are lacking.

Petitioners would however dwell on the disagreement among the Public Service Commissioners, in their decision, as to the present number of vehicles operating along the San Fernando-Guagua line. Associate Commissioner Gabriel P. Prieto, the ponente, stated that ten (10) jitneys and six (6) buses operate on said line; Commissioner Alejandro A. Galang, who concurred in part and dissented in part, and Associate Commissioner Antonio H. Aspillera, who dissented, said seventy-nine (79) jitneys operated thereon.

The reason for the above difference is that the ponente referred to units operating strictly between San Itrnando and Guagua, whereas his colleagues included all units passing the San Fernando-Guagua line, even those starting and/or ending in places other than San Fernando and Guagua (Exh. 4, Record, p. 10).

For purposes of the issue herein, the foregoing consideration is not decisive. Substantial evidence still Supports the finding of the Public Service Commission, through the ponente, concurred in by Commissioner Galang, that at least two (2) more units are needed in the San Fernando-Guagua line, premised on the fact that—notwithstanding the vehicles already operating on said line—passengers usually have to stand inside the vehicles and that frequently many people along the way are not able to ride but must stand and waife. Such a situation Is not difficult to understand, for many of the units passing said line are express services, which cannot pick up passengers along the way, but only in the town proper, as testified to by petitioners' witness Severino Jimenez (Record, p. 143).

Finally, petitioners do not invoke the prior operator rule; neither could they, since they deny the need for more units on the line.[2]

Wherefore, the decision of the Public Service Commission authorizing the applicant to operate two (2) units of jitneys by PUJ service at the San Fernando-Guagua line, Pampanga, is hereby affirmed, with costs against petitioners. So ordered.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, and Sanchez, JJ., concur.

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[1] Ice & Cold Storage Industries of the Phil., Inc. vs. Valero, 85 Phil. 7; Halili vs. Isip, L-2458, January 28, 1950.

[2] Isidro vs. Ocampo, 105 Phil., 911.

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