

FORTUNATO F. HALILI, PETITIONER, VS. CAM TRANSIT CO., RESPONDENT.

G.R. No. L-7494. November 29, 1955

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

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This an appeal from an order of the Public Service Commission granting a petition of CAM Transit Co., Inc. for certain changes in its route. The pertinent facts are set forth in said order, for which we quote:

"This refers to the amended petition filed by the appellant in this case and dated June 12, 1953 asking for a modification of its route on the line City Hall-Balara via Kamuning authorized to it in this case. One of the lines authorized to the applicant is from Balara to Manila City Hall via Kamuning with ten buses, the prescribed route being from Balara over the Marikina-Baranka Road, Marikina-San Juan Road, Highway 54, Kamuning Avenue, España Extension, España, etc. to City Hall Manila. Applicant asks that five of its ten buses be allowed to operate from City Hall to Balara via the so-called 'Derecho' route, that is España, Quezon Boulevard, University Site up to Balara; and the other five via España, España Extension, Sampaloc Avenue, Kamuning, Highway 54, Silangan Avenue and University Site up to Balara. Applicant alleges that the two proposed new routes are more feasible and practical for the public being shorter and more populated route wherein there is much demand for transportation facilities as against its present route via the Baranka and Marikina Roads which is much longer and wherein there are few passengers who can benefit from its service. The petition object of this order was filed in amendment to applicant's petition of July 2, 1952 wherein applicant sought a correction of the route prescribed for its City Hall-Balara line contending that the route prescribed in this case was erroneous and that it could not have been the intention of the Commission to require its buses to pass via Baranka and Marikina Road but that the correct route should have been via Sampaloc Avenue and Kamuning and then Silangan Avenue up to U.P. Site and Balara. Acting on that petition of July 2, 1952, the Commission ruled that a mistake has been committed in prescribing the Baranka and Marikina Roads as a route for the applicant and that the intention of the Commission was to allow the route via Kamuning, for which reason applicant was allowed to route its buses via España, España Extension, Kamuning, Silangan Avenue and U.P. Site up to Balara instead of via Baranka and Marikina Roads. This order of the Commission was appealed by oppositor Fortunato Halili to the Supreme Court and said tribunal revoked the order of the Commission on the ground that the change of route was a substantial and not an innocent one and such change could not be ordered by the Commission without a hearing to afford the oppositor an opportunity to present evidence against the proposed change of route. The Commission then set the petition for hearing but in the meantime the applicant had filed its amended petition of June 12, 1953, above referred to, proposing the two routes for its ten buses, that is, five on the 'Derecho' route and five on the Kamuning-Silangan route." (Petitioner's Brief, pp. 19-21.)

After due trial, the Public Service Commission issued an order, dated January 22, 1954, granting the application of CAM Transit Co., Inc., to operate via two (2) new routes above referred to, and canceling and revoking the authority granted said company, by virtue of the decision of said Commission dated June 3, 1953, to operate along the line Balara-City Hall, via Kamuning, Marikina-San Juan Road and Marikina-Baranka Road.

Fortunato F. Halili has appealed from the order aforementioned upon the ground that:

"The Public Service Commission erred in authorizing the re-routing of respondent's ten buses on the line City Hall (Manila)-Balara via the Marikina-San Juan Road and Baranka Road, so that five of these buses will pass the so-called 'Derecho' route to Balara, and the other five buses will pass the Kamuning-Silangan-U.P. Site route to Balara, to the great prejudice of the petitioner." (Petitioner's Brief, p. 7.)

In support of this assignment of error, appellant maintains: (1) that the route on which herein appellee was originally authorized to operate was not meant for the benefit of the students, professors, employees and laborers of the University of the Philippines; (2) that there is ample service along the new routes applied for by said appellee; (3) that the Public Service Commission has not declared that the present service along said routes is insufficient to meet the demands of the traffic therein; (4) that the distance via the Marikina-San Juan Road is approximately the same as that of the Kamuning-Silangan Avenue route; (5) that the order appealed from would deprive the passengers in the old route of herein appellee of the necessary means of transportation; and (6) that appellant is authorized to operate in the so-called "Derecho" route, not merely twenty-four (24) buses, as stated in the order appealed from, but thirty-two (32) buses.

The first argument is predicated upon the theory that appelle's terminal is not the University of the Philippines, but Balara, from which appellant deduces that the original certificate of public convenience in favor of said appellee could not have been granted for the benefit of the students and employees of the University of the Philippines. It appears, however, that appellant's terminal is, likewise Balara, not the University of the Philippines. Moreover, Balara is just behind the site of said university, whose students and employees could, accordingly, avail of the services of all public utility operators with terminal in said place. At any rate, regardless of the purpose for which appellee's certificate of public convenience may have been issued, it is obvious that the Public Service Commission may authorize the re-routing of appellee's buses directly to the university site, if public convenience so demands, and the order appealed from has, in effect, so found.

With reference to appellant's second and third arguments, the order in question has the following to say:

"Applicant presented oral and documentary evidence to prove the necessity of authorizing the modification of route proposed by it, its oral evidence being the testimony of Agent Primitivo Villena of this Commission, who testified regarding his observation of passenger traffic on the 'Derecho' and Silangan routes; the number of buses authorized and operating on said routes; and as to shortage of facilities on both routes on certain hours of the day due to insufficient vehicles operating therein; Miguel Heras, Manager of the applicant company, who testified regarding his observation on traffic conditions on both routes, the number of buses operating therein daily, and as to the lack of passenger traffic on the Baranka and Marikina Roads which make the service over the said routes not of much need to the public; and as to the advantage and benefit which would accrue to the public if its buses were allowed to follow the two proposed routes. The documentary evidence consist of certified copies of decisions authorizing oppositor Halili's bus service to Balara and U.P. Site for the purpose of showing that the authorized service of Halili is not sufficient for the need of the public. Oppositor Halili's evidence consist of the testimony of his Manager, Benvenuto Halili, to the effect that the service authorized to the Halili Transit over the 'Derecho' and Kamuning routes under various certificates of public convenience is more than sufficient for the needs of the public and its service, authorized from various points in Manila to Balara via U.P. Site, provides a regular headway on both routes which can adequately take care of the passengers traveling from Balara to Manila via 'Derecho' and Kamuning routes; that aside from Halili, there

are other operators whose buses go by both proposed routes, and an authorization to the applicant to adopt these routes would result in service which the public does not need. Oppositor De Dios evidence is to the effect that it has adequate bus service authorized by the commission along the Kamuning route and 'Derecho' route and that it regularly operates nine units in the 'Derecho' route and from three to five buses in the Kamuning route and its service is sufficient for the real needs of the public

"We have studied the record carefully and are satisfied that petitioner has established the need for authorizing it to operate on the 'Derecho' and Kamuning routes in lieu of its present route via Baranka and Marikina Roads. On the 'Derecho' route it appears that Halili is authorized a total of 24 units, 15 under Case No. 52272 with starting point in Libertad, Sta. Ana, Singalong and San Nicolas; 4 under Case No. 54638, and 5 under Case No. 65482, and De Dios Transit has 9 units over the same route. Oppositor Halili claims 32 units over said 'Derecho' route but it appears that 8 of these units are those authorized under Case No. 400 for the line Manila-Balara via Pasong Tamo. On the Kamuning route the Halili operates 6 units. The petitioner is authorized on a portion of this route up to the intersection of Kamuning and Highway 54, and the change of route would enable its five buses to go to the U.P. via Silangan Avenue instead of taking the circuitous route via Marikina Road and Baranka Road. It sufficiently established that existing passenger traffic on both routes justify the grant of an authority to the petitioner to operate five of its buses via the 'Derecho' route and the other five via Kamuning and Silangan. Agent Villena of the Commission testified that he undertook a checking of buses on the 'Derecho' route for a period of nine days and observed that most of the buses were traveling with standing passengers and that this occurred at all hours of the checking done. The heavy traffic on both routes is due to the people who travel to the U.P. everyday and at all hours consisting of students, employees and laborers who study or work at the University and for whom a transportation service via the 'Derecho' route or via Kamuning is much more convenient than one via the much longer route via Baranka and Marikina Roads. We find from the evidence that public convenience will be promoted by permitting the applicant to operate five of its presently authorized units via the 'Derecho' route and other five via the Kamuning route, and that the grant of this authority will not result in useless, duplication of service in view of the fact that there is enough passenger traffic on both routes to be served by the buses of the applicant." (Petitioner's Brief, pp. 21-24.)

The aforementioned findings to the effect "that appellant has established the need for authorizing it to operate on the 'Derecho' and Kamuning routes in lieu of its present route via Baranka and Marikina Roads"; "that existing passenger traffic on both routes justify the grant of an authority to the petitioner to operate five of its buses via the 'Derecho' route and the other five via Kamuning and Silangan", inasmuch as Agent Villena of the Public Service Commission, had, upon observation, noticed "that most of the buses were traveling with standing passengers and that this occurred at all hours of the checking done"; and "that public convenience will be promoted by permitting the applicant to operate five of its presently authorized units via the 'Derecho' route and the other five via the Kamuning route, and that the grant of this authority will not result in useless, duplication of service in view of the fact that there is enough passenger traffic on both routes to be served by the buses of the applicant", necessarily imply that the present services in said routes are insufficient.

As regards appellant's fourth argument, his own witness, Benvenuto Halili, testified that the Kamuning-Silangan Avenue route is much shorter than the Marikina-San Juan Road and Baranka Road.

The fifth argument is predicated upon the injury to the public in appellee's original route- which would be abandoned in consequence of the order appealed from- especially the students and employees of the Ateneo de Manila, Xavier Ville, Mary Knoll College, and Project 4, otherwise known as Quirino District. It appears, however, that the Ateneo de Manila and the Mary Knoll College have special contracts with the De Dios Transportation Company and JD Transit, respectively. Moreover, said educational institutions and the Xavier Ville (where there are few houses) have the services of two regular TPU operators, namely, the Marikina Bus and the Marikina Valley, apart from seven (7) buses of the JD Transit operating on the same route, the services of

which inure, also, to the benefit of the people in the so-called "Quirino District." Needless to say, when the Public Service Commission held that public convenience would be promoted by the aforementioned modifications of appellee's route, it must have found that the inconvenience or injury, if any, to be suffered by the people in the old route is more than off-set by the benefits resulting from the change of route.

The last argument is based upon eight (8) units that appellant is authorized to operate under case No. 400 of the Public Service Commission. Appellant alleges that said units should be included among these operating via the "Derecho" route. However, it appears that said "Derecho" route was opened in 1951, whereas the certificate in said case No. 400 was issued way back in 1924, and, hence, could not have been intended to cover said route, which, at that time, was not in existence, apart from the circumstance that said units were authorized to operate from Manila to Balara via Pasong Tamo.

Being in accordance with the facts and the law, the order appealed from is hereby affirmed, with costs against petitioner-appellant, Fortunato F. Halili.

IT IS SO ORDERED.

Paras, C.J., Bengzon, Padilla, Reyes, Jugo, Bautista Angelo, Labrador, and Reyes, J.B.L., JJ., concur.

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