

BESSIE M. GRAY, ROSARIO S. FRANCO, NARCISO DYSOCO, ANGELES GONZALO, DIONISIO PADILLA, SINGZON'S JEEPNEY SERVICE CO., INC., BENJAMIN CARNECER, ANGEL ESTRADA, JUAN SOYOSA, BALDOME...*G.R. No. L-25222. September 27, 1968*

Ponente: CONCEPCION, C.J.

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Original action for certiorari and prohibition with preliminary and/or mandatory injunction.

On June 21, 1965, the Municipal Board of Tacloban City enacted Ordinance No. 11, "prescribing rules and regulations for the operation and maintenance of motorcabs[1] either for hire or for private use, in the City of Tacloban, regulating the occupation of motorcab drivers, providing penalties for violation thereof and for other purposes." It would seem that, thereafter, Vicente C. Kiungco, Lucy Guillera, Serapion Nebreja, Romualdo Fua, Domingo Yu and Felipe Garcia—hereinafter referred to as respondents—secured permits to operate motorized pedicabs or motorcabs in Tacloban, pursuant to said ordinance. However, on September 23, 1965, Antonio Separa, the Land Transportation Commission Registrar in Tacloban, at the behest of Bessie M. Gray and other auto-calesa operators in the locality—hereinafter referred to as petitioners—caused the motorcabs or motorized pedicabs of respondents herein to be seized and the operation thereof, in effect, suspended, upon the theory that Ordinance No. 11 is null and void.

This development impelled respondents, on October 4, 1965, to commence Civil Case No. B-096 of the Court of First Instance of Leyte, against Separa, for a declaratory relief, with preliminary injunction. In their pleading therein, respondents herein prayed that their rights under the ordinance in question be defined and declared, and that, meanwhile, a writ of preliminary injunction be issued, ex parte, restraining Separa from interfering with the operation of their motorized pedicabs or motorcabs. Upon the posting and approval of a bond in the sum of P2,500, said court, presided over by Honorable Delfin Vir. Suñga, Judge, issued, on October 6, 1965, the writ of preliminary injunction prayed for. Presently, or on October 11, 1965, petitioners herein sought permission to intervene and filed a motion to dissolve the writ of preliminary injunction. On October 22, 1965, Judge Suñga issued an order granting said permission and giving herein petitioners ten (10) days from notice within which to file either their complaint or their answer in intervention.

Instead of doing so, on October 26, petitioners commenced the present action for certiorari and prohibition with preliminary and/or mandatory injunction, against Judge Suñga and respondents herein, to restrain said Judge from implementing his injunction of October 6, 1965, as well as from further acting in said civil case No. B-096, upon the ground: 1) that Judge Suñga is without jurisdiction to entertain said case, because the operation of motor vehicles is within the jurisdiction of the Public Service Commission; 2) that respondents herein have a legal remedy other than a proceeding for declaratory relief; 3) that petitioners herein had not been included as parties in said case; 4) that respondents have not complied with the requirements of the questioned ordinance; and 5) that

the same is patently illegal.

With the exception of the first, all of these objections are irrelevant to the relief sought by petitioners herein, for, in an action for certiorari and prohibition, such as the one at bar, the main issue is the jurisdiction of the court, board or officer against whom the writ prayed for is sought.[2] Indeed, assuming that respondents' complaint in Civil Case No. B-096 was defective, for non-inclusion of petitioners herein as original parties in the proceedings, such defect was cured by the order allowing them to intervene. Similarly, the alleged illegality of Ordinance No. 11 and the alleged non-compliance by respondents herein with the requirements thereof are material only to the nature of the declaration to be made or decision to be rendered, after appropriate proceedings, in said case, in the exercise of the court's jurisdiction over the same. Again, the existence of another relief that may allegedly be availed of by respondents herein may, at best, affect their right of action in the aforementioned case, not the authority of the lower court to hear and decide the same. In Short, the second, third, fourth and fifth grounds of petitioners' objection have no bearing on the jurisdiction of the lower court.

As regards this question, petitioners maintain that Judge Suñga has no authority to hear case No. B-096 because the operation of motor vehicles is within the jurisdiction, not of the ordinary courts of justice, but of the Public Service Commission. This contention is evidently based upon a misapprehension of the question involved in said civil case. The issue therein is, not whether respondents should be granted a license or franchise to operate motorcabs or motorized pedicabs, or the conditions under which the operation thereof shall be allowed, but whether the ordinance in question is valid or not. This question is, manifestly, beyond the jurisdiction of the Public Service Commission and within the competence of the lower court.

"The Public Service Commission is not a judicial tribunal. Its functions are limited and administrative in nature. It has only such jurisdiction and power as are expressly or by necessary implication conferred upon it by statute. (*Filipino Bus Co. v. Philippine Railway*, 57 Phil. 860) And so it cannot pass upon questions that are within the exclusive province of the ordinary courts of justice, like the validity of a contract (*Hoc Lian Ho Dry Goods Club v. Meralco*, 63 Phil. 804; *Dagdag v. Public Service Commission*, L-11940, July 25, 1958)."[3]

WHEREFORE, the petition herein should be, as it is hereby dismissed and the writ prayed for denied, with costs against the petitioners.

IT IS SO ORDERED.

Reyes, J.B.L., Makalintal, Sanchez, Ruiz Castro, Angeles, Fernando and Capistrano, JJ., concur.

Dizon, J., did not take part.

Zaldivar, J., is on official leave.

Petition dismissed.

[1] Including pedicabs and motorized tricycles.

[2] Sections 1 and 2, Rule 65 of the Rules of Court; *Ma-ao Sugar Central v. Barrios*, 79 Phil. 666; *Ang Ching Gi v. De Leon*; 79 Phil. 580; *Ong Sit v. Piccio*, 78 Phil. 785; *Tarnate v. Daza*, 76 Phil. 842; *Claudio v. Zanduetta*, 64 Phil. 812, 817; *Westminster Bank v. Torres*, 57 Phil. 422; *Tayko v. Capistrano*, 53 Phil. 866; *Sabado v. Cristina Gonzalez*, 53 Phil. 770; *So Chu v. Nepomuceno*, 29 Phil. 208.

[3] *Batangas Laguna Tayabas Bus Co. v. Public Service Commission*, L-25994, L-26004 and L-26046, August 31, 1966.

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