

URSULA T. PAREDES, PETITIONER, VS. THE PUBLIC SERVICE COMMISSION, ET AL., RESPONDENTS.

G.R. No. L-7111. May 30, 1955

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for review of an order of the Public Service Commission denying the petition of Ursula T. Paredes praying that she be granted an extension of time within which to effect the registration of certain number of busses authorized in the certificate of public convenience granted her in Cass No. 34415 which are necessary to operate on the ten lines mentioned in said certificate.

Petitioner was the holder of a certificate of public convenience issued by the Public Service Commission authorizing her to operate a passenger and freight service on several lines in the City of Manila by virtue of a decision rendered on April 29, 1950 (Case No. 34415). Before the approval of said certificate, petitioner was the holder of other emergency certificates of public convenience wherein she was authorized to operate a total of seventeen (17) busses. When the decision in said case was rendered, the Commission was of the impression that the seventeen busses which were originally authorized were still in operation, so that, in addition, she was also authorized to register other three (3) busses to complete the twenty authorized in the decision. Petitioner, however, was not able to register these three additional busses, nor to operate the other busses she had been authorized, and so, on February 25, 1953, she filed a petition requesting that she be allowed to re-register the total twenty units in order to enable her to operate the lines granted her by the Commission. To this petition, Antonio Heras and Vicente Heras, who are operating under the trade names MD and JD Transits respectively, as well as the De Dios Transportation Company, also a TPU operator on several lines, objected in writing and joined hands in petitioning for the cancellation of the certificate of public convenience granted to petitioner for her failure to register the units authorized in her certificate.

This petition for re-registration as well as the written opposition and petition for cancellation were set for hearing to give the parties an opportunity to substantiate their respective contentions, and, after due hearing, the Commission issued an order on July 3, 1953 wherein it not only denied petitioner's request but amended its former decision by cancelling all the lines granted her with the exception of the line Plaza Miranda-Balara, and granting her authority to operate only one unit for that line. Her petition for reconsideration having been denied, she interposed the present petition for review.

It appears from the evidence that on April 29, 1950 petitioner was granted a certificate of public convenience to operate a total of twenty busses on various lines within the City of Manila and its suburbs. When said certificate was granted, the Commission was of the impression that the seventeen busses which were authorized her previously were still in operation so that, in addition, she was also authorized to acquire other three busses within a specified period of time. It appears, however, that most of said seventeen busses were no longer in operation for, as the record discloses, in 1949 she stored nine of her authorized units, in 1950 she placed in storage five more units, and in 1951 she stored two additional units, with the result that in this latter year sixteen of the units she

vae required to register and operate were not in operation. It father appears that the three additional units petitioner was authorized to acquire were never provided for in spite of the many extensions of time granted her for that purpose. It vss likewise established that in 1952 petitioner registered under her certificate only one bus and in 1953 also one bus. Asked to explain why she failed to acouire the required units, petitioner attributed it to "severe scarcity of trucks, accessories, tires, and materials as a result of the unsettled war conditions", and to prove it she presented a letter of the International Harvester Company wherein it appears that she placed an order for twenty-five units with which she intended to comply with her commitment but that they were not then available, But this letter shows that while the trucks were not then available the company vas however willing to deliver them by lots, i.e., nine in March, 1952, ten in April, 1952 and six in May, 1952. And petitioner was not able to explain why she failed to avail herself of this offer of the company. Upon these facts the Commission concluded that petitioner not only failed to cor.ipiy with the conditions set forth in her certificate but practically abandoned the service for a period of three years, Consequently, it denied her petition for re-registration and cancelled her original certificate by limiting her lire to one, with only one unit.

We find no reason for disturbing this finding of the Commission for tha same is based on a sound principle. A grantee of a certificate who fails to comply with his commitment for reasons which to the Commission do not appear justifiable does not merit any grace on grounds of enuity, for he should be deemed to have forfeited the privilege he has been granted. A public service operator assumes a commitment which cannot be taken lightly, nor be made dependent on whim or caprice, for behind it lies the paramount interest of the public. Public necessity cannot be made to wait, nor sacrificed for private convenience for, as the Commission has aptly said, "an operator who unjustifiably abandons his service for two or three years by not registering the necessary equipment forfeits his right to said equipment and the service authorized to him," Such is the predicament of petitioner. She has neglected her duty for three years in disregard of the interest of the public and such neglect amounts to a forfeiture.

It is true that petitioner made an attempt to prove at the hearing on her motion for reconsideration that the reason for her failure to meet her commitment was because ths International Harvester Company was not able to make goods its offer to sell her twenty-five units due to circumstances beyond its control, but the Commission found the attempt futile not only because it was made after the main case hs been submitted, but also because even if it be admitted as true it cannot relieve her of her dereliction of duty for the simple reason that the Commission found that for two whole years she had withdrawn her busses from operation and had placed them in storage without its previous authority. Moreover, the failure of one company to furnish petitioner the units she needs for her lines does not necessarily mean that she cannot obtain the same units from other dealers or companies. And yet this she failed to do. She cannot now complain, after jeopardizing public interest, that her request for equity has baen denied. She alone is to blame for the consequences of her own act.

Petitioner contends that the order authorizing her to prerate only one unit out of the twenty she had been previously authorized is unconscionable considering the heavy investment sh3 has made which amounts to a total of P165,250. And. in this connection, she invokes the various decisions of this Court wherein it was laid down as a basis principle underlying transportation busines that it is the duty of the Commission to protect rather than destroy the investment of an operator.[1]

The doctrine adverted to is sound but it has not application to petitioner. That refers to operate of good standing and not to those whose investment has deteriorated or disappeared through their own fault. In this respect we find fitting this comment of the Commission:

"x x x There can be no investment to protect when tha physical property which constituted tha bulk of that investment has already disappeared either because the applicant sold that property or because they became

obsolete and the applicant did not care to replace them at the time when she could have done so. If she no longer has the trucks on which that investment was made, it is due mainly to her own acts. The law requires the Commission to protect an investment which still exists but if that investment is nonexistent because the property constituting it has been sold or disposed of even to the detriment of the public service, then there is no investment to protect." (Order of August 28, 1953)

Petition is denied, without pronouncement as to costs,

Pablo, Bengzon, Montemayor, Reyes, Labrador, and Reyes, J.B.L., JJ., concur

Concepcion, J., took no part.

[1] The cases referred to are: Batangas Transportation Co. v. Orlanes, 52 Phil., 455; Ariaga v. Javellana, G. R. No. L-4821, and Javallana v. Bariles, G. R. No. L-4347.

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