

FORTUNATO F. HALILI, PETITIONER, VS. EUSEBIO DAPLAS, RESPONDENT.*G. R. No. L-20282. May 19, 1965*

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Eusebio Daplas filed before the Public Service Commission an application for a certificate of public convenience to operate a bus service for the transportation of passengers and freight on the line comprising Amparo Subdivision in Caloocan City to Divisoria (Manila) and vice-versa employing 20 buses for that purpose. To the application Fortunato F. Halili filed an opposition alleging, among others, that the service he is rendering on the line covered by the application is more than sufficient to meet the demands of the traveling public.

Both parties presented testimonial as well as documentary evidence, and after carefully considering the same, the Public Service Commission decided to authorize the applicant to operate at least 12 of the 20 units applied for believing it to be sufficient to serve the needs of the traveling public along the line covered by the application subject to certain conditions therein specified. The oppositor interposed the present appeal.

The evidence submitted by the applicant tends to show that in Amparo Subdivision there are many people living most of whom are employees working in the City of Manila and students attending classes in the different colleges and universities established in Manila; that these employees and students leave in the morning and come back at noon and in the afternoon; that along the way from Amparo Subdivision to Divisoria there are many passengers bringing their agricultural products to Divisoria and some to Blumentritt who later return along the same line with whatever purchases they had made; that the buses or trucks of the oppositor make irregular trips most of which are already full to capacity upon passing Amparo Subdivision, so that the residents in the area are having difficulty in securing means of transportation; and that this difficulty is also being experienced by the passengers waiting along the way from Amparo Subdivision to Manila.

On the other hand, the evidence of the oppositor tends to show that his service along the Ipo-Divisoria line is sufficient to take care of the passengers traveling on said line, and that he has buses entering Amparo Subdivision to serve the people residing therein who were relatively few. He submitted the reports of the checkers who were posted in two different checking points to observe the flow of the passengers along the line applied for which point out that there is no public necessity for the additional bus service desired by the applicant. On this point, applicant also presented as rebuttal evidence the report made by another inspector on the checking he underwent at barrio Baesa wherein it is shown that oppositor's buses, whether coming or going to Manila, were loaded to capacity with instances of overloading.

We note that the applicant has submitted quite a substantial evidence in support of his application. Thus, the testimonial evidence consisted in the testimonies of applicant himself, of Benjamin Salazar, a resident of Novaliches, Quezon City, Leopoldo Garcia, another resident of Quezon City, and Corona B. Venal, a practising lawyer and a resident of Amparo Subdivision. In addition, applicant also submitted documentary evidence

consisting of a petition submitted by the people affected in the line applied for and the reports of two checkers prepared by duly authorized agents of the Public Service Commission. Of course, oppositor likewise presented testimonial and documentary evidence to show that there was no public necessity for the approval of the instant application, among which we notice two employees of Halili Transit which is by oppositor, like Antonio Santiago, as inspector, and Alfredo dela Cruz, its operation manager. He also submitted the reports of two checkers who made a similar observation regarding the flow of passengers on the line applied for.

The Public Service Commission, after weighing carefully the evidence of both petitioner and oppositor, reached the conclusion that there is still room for an increase in the bus service that was then in operation on the line applied for, for which reason it authorized the applicant to operate at least 12 of the 20 units applied for. In reaching this conclusion, the Commission made the following comment:

“* * * Even the testimony of Inspector Antonio Santiago of oppositor, reveals that oppositor is operating only three buses making only nine round trips during the day which is clearly inadequate for the residents of Amparo Subdivision. And even Isabel Dikit, another witness for oppositor, testified that buses of the oppositor coming from the direction of Ipo, upon passing the Amparo Subdivision Gate, have already seating capacity resulting in the difficulty of residents of the Subdivision who have to wait at the Gate to secure accommodation in said buses. This clearly corroborate the testimonies of the witnesses of applicant to the effect that people residing in the Amparo Subdivision are having difficulty in riding in the buses of oppositor passing in the national road in front of Amparo Subdivision. There being evidence that applicant is a Filipino citizen and financially qualified to maintain and operate the proposed service, the opposition filed herein is hereby overruled, * * *.”

It appearing that the Commission has found enough substantial evidence to support its conclusion that there is further room for authorizing the operation of additional bus service on the line applied for, which evidence is not only testimonial but documentary, we have no other alternative than to affirm the same since we are not authorized to substitute our conclusion for that of the commission. The rule is that the Commission's findings of fact, if supported by substantial evidence, are conclusive upon this Court. We are only authorized to modify or ignore them when it clearly appears that there is no evidence to support reasonably such conclusion^{[[1]]}. More specifically, this Court said: "Whether public necessity and convenience warrant the putting up of additional service on the part of the appellee, is a question of fact which the Public Service Commission has found in the affirmative. This finding, being supported by sufficient evidence, should not be disturbed" (Raymundo Transportation Company vs. Cervo, 91 Phil. 313).

With regard to the claim that the service proposed by applicant, far from promoting public interest, would only result in ruinous competition with the established transportation service of oppositor, suffice it to quote what we said in a similar case:

"* * * In order that the opposition based on ruinous competition may prosper, it must be shown that the opponent 'would be deprived of fair profits on the capital invested in its business. The mere possibility of reduction in the earnings of a business is not sufficient to prove ruinous competition. It must be shown that the business would not have sufficient gains to pay a fair rate of interest on its capital investment.' (Manila Electric Co. vs. Pasay Transportation Co., 66 Phil. 36, 6 L.J. 1117). Mere allegations by the oppositor that its business would be ruined by the establishment of the ice plants proposed by the applicants 'are not sufficient to warrant this court to revoke the order of the Public Service Commission.' (Teodora Santos Vda. de Pilares vs. Consuelo Arranz, G. R. No. 45462, July 28, 1938." (Ice & Cold Storage Industries of the Philippines Inc. vs. Valero, 85 Phil., 7).

Wherefore, the decision appealed from is affirmed. No costs.

Bengzon, C. J., Concepcion, Reyes, J.B.L., Paredes, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur.

[1]Javellana vs. La Paz Ice Plant and Cold Storage Co., 63 Phil., 621; Philippine Shipowner's Association vs. Public Utility Commissioner, 43 Phil., 328; San Miguel Brewery vs. Lapid, 63 Phil. 539; Ice & Cold Storage Industries of the Phil. Inc. vs. Valero, 85 Phil. 7.

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