

RURAL TRANSIT CO., LTD., PETITIONER, VS. ANASTACIO R. TEODORO, ASSOCIATE COMMISSIONER, PUBLIC SERVICE COMMISSION, AND SANTOS-RELUCIO-SORIANO, NOW LEON M. SANTOS, RESPONDENTS.

G.R. No. 37336. July 26, 1932

Ponente: BUTTE, J.

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BUTTE, J.:

This is an original proceeding in this court for a writ of mandamus. On April 22, 1932, in Baguio, Justice Malcolm in vacation, heard the petition and denied the writ. The motion for reconsideration was filed on April 30, 1932. On May 4, 1932, Justice Malcolm denied the motion, but, reading it as an appeal, ordered same to be reported to this court in July.

The essential facts are as follows:

The Rural Transit Company filed two complaints against the respondent Santos-Relucio-Soriano before the Public Service Commission, asking that the respondent's certificate of convenience to operate motor bus lines as follows:

Cabiao—Manila via Bulacan

Cabiao—Manila via Pampanga

Cabiao—San Fernando

be cancelled for failure of the respondent to operate these lines for a period of four consecutive days. Under the rules of the Public Service Commission, such failure ipso facto cancelled the certificate. On March 9, 1932, the complaints were called up for hearing but before any evidence was submitted by the complainant, the commission dismissed the complaints, it appearing that the respondent admitted his default, and that his certificate from Cabiao to Manila was cancelled. But the commission, in its discretion, allowed him to continue operating a part of the line, namely Cabiao-Arayat. The Rural Transit Company objects to the act of the commission in allowing the respondent to operate the line Cabiao-Arayat.

As this is a matter within the discretion of the Public Service Commission, and as the commission has made a decision of the Rural Transit Company's complaints, however wrong that decision may, in the opinion of the petitioner, be—it is clear that the mandamus does not lie.

A petition for review, as provided in Act No. 3108, would have been the proper procedure.

The decision of the Vacation Justice, denying the writ, is affirmed, and this appeal is dismissed by the court in bane this 13th day of July, 1932.

Avanceña, C. J., Street, Malcolm, Villamor, Ostrand, Villa-Real, Abad Santos, Hull, Vickers, and Imperial, JJ., concur.

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