

## **RADIO COMMUNICATIONS OF THE PHILIPPINES, INC., PETITIONER, VS. FRANCISCO SANTIAGO AND ENRIQUE MEDINA, AS COMMISSIONER, PUBLIC SERVICE COMMISSION, RESPONDENTS.**

*G.R. No. L-29236. August 21, 1974*

Ponente: FERNANDO, J.

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### **FERNANDO, J.:**

It is a legal question of significance that was raised in these two petitions for review, to be decided jointly. It is whether the Public Service Commission, no longer in existence by virtue of the Presidential Decree reorganizing the executive branch of the national government[1] had the jurisdiction to act on complaints by dissatisfied customers of petitioner Radio Communications of the Phil., Inc. and thereafter to penalize it with a fine. In *Radio Communications of the Phil., Inc. vs. Francisco Santiago & Enrique Medina, as Commissioner, Public Service Commission*,[2] the dispositive portion of the challenged order insofar as pertinent reads thus: "[Wherefore], under Section 21 of the Public Service Act as amended, the respondent operator of Radio Communications of the Philippines, Inc. (RCPI) is hereby ordered to pay a fine of [two hundred pesos] (P200.00) within fifteen (15) days from receipt hereof, with the warning that failure to pay the said fine within the aforecited period of time, will leave the Commission no other alternative but to suspend the rates authorized for the operation of respondent herein." [3] In *Radio Communications of the Phil., Inc. vs. Constancio Jaugan & Enrique Medina, Commissioner, Public Service Commission*,[4] the dispositive portion insofar as pertinent is worded as follows: "[For all the foregoing considerations], under Section 21 of the Public Service Act as amended, the respondent, operator of Radio Communications of the Philippines, Inc. (RCPI) is hereby ordered to pay a fine of Two Hundred Pesos (P200.00) within fifteen (15) days from receipt hereof, with a warning that failure to pay the said fine within the aforecited period of time, will leave the Commission no other alternative but to suspend and revoke the rates authorized, for the operation of respondent herein." [5] The allegation by petitioner that it was devoid of such competence is based on the express limitation found in the Public Service Act[6] expressly exempting radio companies from the jurisdiction, supervision and control of such body "except with respect to the fixing of rates." [7] In the face of the provision itself, it is rather apparent that the Public Service Commission lacked the required power to proceed against petitioner. There is nothing in Section 21, thereof which empowers it to impose a fine that calls for a different conclusion.[8] We have to reverse.

There is no dispute as to the facts. The challenged order in *Radio Communications of the Phil., Inc. vs. Santiago and Medina* stated: "It is admitted by respondent [now petitioner] that on July 12, 1966, a telegram was filed with respondent-company and the amount of P1.50 was paid for the transmission of said telegram to Zamboanga City x x x. The telegram, however, was never transmitted until now. The respondent not only did not give any valid explanation, but did not present any evidence to explain why the said telegram was not forwarded to the addressee until now. This is, therefore, a clear case where the respondent, taking advantage of the rates fixed by this Commission collected the sum of P1.50 and promised to render a service to the complainant, i.e. the transmission of his telegram filed on July 12, 1966; but, after receiving the sum of P1.50, respondent failed to render the

promised service." [9] In *Radio Communications of the Phil., Inc. vs. Jaugan and Medina*, the order sought to be reviewed had this to say: "The evidence presented shows that on August 1, 1967, complainant Constancio Jaugan filed a telegram at the branch office of respondent in Dumaguete City, x x x addressed to Commissioner Enrique Medina, PSC, Manila. The telegram was received by an employee of the respondent, Mrs. Jesusa A. Orge, as shown by the receipt x x x dated August 1, 1967, and the sum of P2.64 was collected in payment of said telegram. The telegram, x x x in effect, advised Commissioner Medina that the Land Registration Case where he was cited by subpoena to testify before the CFI of Oriental Negros on August 14 and 15, 1967, was transferred and, therefore, there was no necessity for the said Commissioner to proceed to Negros Oriental on those dates. It appears that the said telegram received by Jesusa Orge at Dumaguete City on August 1, 1967, was transmitted to Manila, on the same date, but was never delivered to the addressee, and on August 14 and 15, when Commissioner Medina appeared before the Dumaguete Court, he was advised that the case was postponed since August 1 and that a telegram was sent to the said Commissioner. Inquiries were made, why the telegram was not received by the Commissioner in Manila; the Dumaguete Office communicated with the Manila Office, on the same date, August 14, 1967 and it was only on August 15, 1967 that the telegram was relayed to the Public Service Commission and was received by one of the employees of the Commission, in the absence of Commissioner Medina who was then in Negros Oriental. x x x "[10] It was the manifest failure in both cases to render the service expected of a responsible operator that led to the imposition of the penalty. The motions for reconsideration in both cases having proved futile, the matter was elevated to this Court.

As noted at the outset, a reversal is called for.

1. Except for constitutional officials who can trace their competence to act to the fundamental law itself, a public official must locate in the statute relied upon a grant of power before he can exercise it. It need not be express. It may be implied from the wording of the law. Absent such a requisite, however, no warrant exists for the assumption of authority. The act performed, if properly challenged, cannot meet the test of validity. It must be set aside. So it must be in these two petitions. That is to defer to a principle reiterated by this Court time and time again. [11] That doctrine goes back to a 1916 decision, *Bautista vs. Angeles*, [12] where Chief Justice Arellano stated the following: "It devolves upon the judicial power to convince the private individual, the party governed, that he has no right to do what he did in violating orders of the administrative authorities issued by them in the exercise of their rights. Once he is convinced, the administrative authorities, by virtue of their own powers, impose the weight of their authority upon him. If they, the administrative authorities of public officials, exceed lawful limits in the exercise of their power of execution, the law provides what shall be done before the judicial power can step in and repair the damage to the private interest, or apply the law by declaring what was properly or improperly done in exercising public power." [13] There is likewise this relevant excerpt from *Villegas vs. Subido*: [14] "Nothing is better settled in the law than that a public official exercises power, not rights. The government itself is merely an agency through which the will of the state is expressed and enforced. Its officers therefore are likewise agents entrusted with the responsibility of discharging its functions. As such there is no presumption that they are empowered to act. There must be a delegation of such authority, either express or implied. In the absence of a valid grant, they are devoid of power. What they do suffers from a fatal infirmity. That principle cannot be sufficiently stressed. In the appropriate language of Chief Justice Hughes: 'It must be conceded that departmental zeal may not be permitted to outrun the authority conferred by statute.' Neither the high dignity of the office nor the righteousness of the motive then is an acceptable substitute. Otherwise the rule of law becomes a myth. Such an eventuality, we must take all pains to avoid." [15] Such a fundamental postulate applies to the Executive itself. So it has been attested by a number of cases involving the President of the Philippines. [16]

There can be no justification then for the Public Service Commission imposing the fines in these two petitions.

The law cannot be any clearer. The only power it possessed over radio companies, as noted was to fix rates.[17] It could not take to task a radio company for any negligence or misfeasance. It was bereft of such competence. It was not vested with such authority. What it did then in these two petitions lacked the impress of validity.

2. The Public Service Commission having been abolished by virtue of a Presidential Decree, as set forth at the outset, and a new Board of Communications having been created to take its place, nothing said in this decision has reference to whatever powers are now lodged in the latter body. It is to be understood, likewise, that insofar as the complainants are concerned, this decision goes no further than to rule adversely on the exercise of authority by the Public Service Commission when it took disciplinary action against petitioner.

WHEREFORE, in L-29236, Radio Communications of the Phil., Inc. vs. Francisco Santiago and Enrique Medina, the order of former Commissioner Enrique Medina of October 13, 1967 as affirmed by the order of the Public Service Commission en banc of May 3, 1968, is reversed and set aside, and in L-29247, Radio Communications of the Phil., Inc. vs. Constancio Jaugan and Enrique Medina, the order of former Commissioner Enrique Medina of October 10, 1967 as affirmed by the order of the Public Service Commission en banc of April 4, 1968, is reversed and set aside. No costs.

Zaldivar, (Chairman), Barredo, Antonio, Fernandez, and Aquino, JJ., concur.

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[1] Presidential Decree No. 1 (September 24, 1972) and Letter of Implementation No. 1 activating the Board of Transportation to take the place of the abolished Public Service Commission (September 24, 1972).

**[2] L-29236.**

[3] Annex B to Petition.

**[4] L-29247.**

[5] Annex C to Petition.

[6] Commonwealth Act No. 146, as amended (1936).

[7] The first paragraph of Section 13(a) of the Public Service Act reads in part: "The Commission shall have jurisdiction, supervision and control over all public services and their franchises, equipment, and other properties, and in the exercise of its authority, it shall have the necessary powers and the aid of the public force: x x x" Section 14 of the same Act insofar as it refers to radio companies reads as follows: "The following are exempted from the provisions of the preceding section: x x x(e) Radio companies except with respect to the fixing of rates; x x x "

[8] The first paragraph of Section 21 of the Public Service Act reads: "Every public service violating or failing to comply with the terms and conditions of any certificate or any orders, decisions or regulations of the Commission shall be subject to a fine of not exceeding two hundred pesos per day for every day during which such default or violation continues; and the Commission is hereby authorized and empowered to impose such fine after due notice and hearing."

[9] Annex B to Petition.

[10] Annex C to Petition.

[11] Cf. *Bautista vs. Angeles*, 34 Phil. 580 (1916); *Chua Pua Hermanos vs. Register of Deeds*, 50 Phil. 670 (1927); *Philippine Co-op Livestock Association vs. Earnshaw*, 59 Phil. 129 (1933); *Aglipay vs. Ruiz*, 64 Phil. 201

(1937); Suanes vs. Chief Accountant, 81 Phil. 818 (1948); Francia vs. Pecson, 87 Phil. 100 (1950); Atienza vs. Phil. Charity Sweepstakes, 90 Phil. 478 (1951); Pagkanlungan vs. De la Fuente, 92 Phil. 94 (1952); Palma vs. Graciano, 99 Phil. 72 (1956); Tapales vs. President of the University, L--17523, March 30, 1963, 7 SCRA 553; Villaluz vs. Zaldivar, L-22754, Dec. 31, 1965, 15 SCRA 710; Sarcos vs. Castillo, L-29755, Jan. 31, 1969, 26 SCRA 853; Villegas vs. Subido, L-26534, Nov. 28, 1969, 30 SCRA 498.

[12] 34 Phil. 580 (1916).

[13] Ibid, 583.

[14] L-26534, November 28, 1969, 30 SCRA 498.

[15] Ibid, 510-511.

[16] Cf. Araneta vs. Dinglasan, 84 Phil. 368 (1949); Lacson vs. Romero, 84 Phil. 740 (1949); De los Santos vs. Mallare, 87 Phil. 289 (1950); Lacson vs. Roque, 92 Phil. 456 (1953); Rodriguez vs. Gella, 92 Phil. 603 (1953); Jover vs. Borra, 93 Phil. 506 (1953); Hebron vs. Reyes, 104 Phil. 179 (1958), Aytona vs. Castillo, L-19313, Jan. 19, 1962, 4 SCRA 1; Climaco vs. Macadaeg, L-19440, April 18, 1962, 4 SCRA 930; Garcia vs. Executive Secretary, L-19748, Sept. 13, 1962, 6 SCRA 1; Gonzales vs. Hechanova, L-21897, Oct. 22, 1963, 9 SCRA 230; Rodriguez vs. Quirino, L-19800, Oct. 28, 1963, 9 SCRA 284; Ang-Angco vs. Castillo, L-17169, Nov. 30, 1963, 9 SCRA 619; Bolinao Electronics Corp. vs. Valencia, L-20740, June 30, 1964, 11 SCRA 486; Pelaez vs. Auditor General, L-23825, Dec. 24, 1965, 15 SCRA 569; Guevarra vs. Inocentes, L-25577, March 15, 1966, 16 SCRA 379.

[17] Commonwealth Act No. 146, as amended (1936)

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