

GAVINO T. VAGILIDAD, PETITIONER, VS. MANUEL M. MAS AND THE PUBLIC SERVICE COMMISSION, RESPONDENTS.

G.R. No. L-29185. September 24, 1985

Ponente: MAKASIAR, C.J.

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MAKASIAR, C.J.:

Petitioner Gavino T. Vagilidad seeks the reversal of the orders dated September 15, 1967 and April 22, 1968, respectively, of the then Public Service Commission in PSC Case No. 66-46-0C, finding him guilty of violating his certificates of public convenience, thereby imposing upon him various fines totalling FOUR HUNDRED AND FIFTY PESOS (P450.00) and declaring that the route Sibalom-San Jose via Barrio Odiong, province of Antique, is not covered by any of the certificates of public convenience issued in his favor (pp. 1, 44, 50, rec.).

On August 5, 1966, herein respondent, Manuel M. Mas, filed a sworn complaint before the respondent Public Service Commission, docketed as PSC Case No. 66-46-0C, alleging, inter alia, that four jeepneys registered under the certificates of public convenience of herein petitioner Gavino T. Vagilidad are operated under the "kabit" system, and that these jeepneys have been illegally operating on the Sibalom-San Jose route via the barrio of Odiong, Antique, a route not covered by any of the certificates of public convenience of the petitioner-operator, but covered by his (Manuel M. Mas) certificate of public convenience granted to him in Public Service Commission Case No. 66-23264 (pp. 22-27, rec.).

On August 9, 1966, on the basis of this complaint, the respondent Commission issued a memorandum order to Inspector Fidencio Perlas directing him to go to Antique to look into the complaint.

On August 24, 1966, Inspector Fidencio Perlas submitted a written report of his investigation, pertinent portions of which read:

"APPREHENSIONS

"1. PUJ-10561 registered with the Certificate of Public Convenience of GAVINO VAGILIDAD in Case No. 64-4169 was apprehended for operating outside his authorized line and for overloading with 18 passengers.

"2. PUJ-10606 registered with the Certificate of Public Convenience of GAVINO VAGILIDAD in Case No. 4171 was apprehended for operating outside his authorized line and for trip-cutting.

"3. PUJ-10604 registered with the Certificate of Public Convenience of GAVINO VAGILIDAD in Case No. 4169 was apprehended as habitual violator in operating outside his authorized line and for trip-cutting.

"Note: The above apprehensions were made at the checkpoint of Sibalom-San Jose via Odiong route. Gavino Vagilidad is not an authorized operator on this route. The abovementioned vehicles made trips only on Sibalom-San Jose via Odiong route which is outside the authorized line. The distance is only 10 kms.

"Case No. 64-4169 (Gavino Vagilidad) authorizes the line from Sibalom to Iloilo City via Egaña of 101 kms.

"Case No. 64-4171 (Gavino Vagilidad) authorizes a loop-service line from San Remigio via Sibalom

(poblacion) Bo. Egaña, Malandog, San Jose (poblacion) and San Pedro of 52 kms. In both cases abandonment of line is almost 9/10 of the authorized line to the prejudice of the riding public" (p. 28, rec.).

The respondent Public Service Commission set the case for hearing on September 20, 1966. Despite notice to all the parties concerned, only the complainant appeared on the day of the hearing. Accordingly, respondent Commission declared petitioner-operator Vagilidad in default and proceeded to receive the testimony of complainant Mas ex parte. Inspector Fidencio Perlas also appeared and testified against petitioner-operator Gavino T. Vagilidad.

On October 1, 1966, petitioner-operator Gavino Vagilidad filed a motion to lift the order of default and to cross-examine the witnesses against him. Respondent Public Service Commission granted the said motion and set the case for hearing on November 10, 1966.

On September 15, 1967, respondent Public Service Commission issued an order, the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING, the Commission herein finds respondent-operator guilty for violating his certificates of public convenience and hereby imposes a fine of one hundred pesos (P100.00) for operating PUJ-10561 in violation of his certificate issued in Case No. 64-4169, one hundred and fifty pesos (P150.00) for operating PUJ-10606 in violation of his certificate issued in Case No. 64-4171 and two hundred pesos (P200.00) for operating PUJ-10694 in violation again of his certificate issued in Case No. 64-4169. Said fines shall be payable within ten (10) days from receipt hereof with the warning that failure to comply strictly with the terms and conditions of his certificates shall be a ground for the cancellation of the same" (p. 46, rec.).

On October 17, 1967, petitioner-operator Gavino T. Vagilidad filed a motion for reconsideration (p. 47, rec.); but the same was denied by the respondent Public Service Commission in its order dated April 22, 1968, pertinent portions of which read:

"Upon consideration of the motion for reconsideration filed by the respondent through counsel, dated October 17, 1967, and it appearing that the line Sibalom-San Jose via Odiong road is not covered by any of the certificates of public convenience issued in favor of respondent, the said motion for reconsideration is hereby DENIED for lack of merit. Serve copy of this order and of the order dated September 15, 1967 upon the Chief, Finance, PSC, for immediate enforcement" (p. 50, rec.).

Hence, on July 1, 1968, petitioner Gavino T. Vagilidad filed a petition for review with this Court raising the following issues, to wit:

1. The orders appealed from have violated the time-honored rule that in the operation of a transportation business, public convenience and comfort should be the primary consideration;
2. The said orders have violated the fundamental principle that in a transportation business, the prior operator should be given protection;
3. The same orders have in effect sanctioned monopoly by respondent Manuel Mas (pp. 5 & 6, rec.).

The above issues are factual in character which call for a review of the evidence considered by the respondent Public Service Commission. WE have ruled many times without number that "x x where the petition for review disputes merely the sufficiency of the evidence, the finding cannot be disturbed. It is not for this Court to determine credibility and preponderance of proof nor to examine the proof de novo and determine for itself whether or not the preponderance of evidence really justifies the decision. It is not to substitute its discretion for that of the Public Service Commission on questions of fact. The lack of wisdom of the conclusion reached by the Public Service Commission affects neither its authority to decide nor the validity of its decision." (The

aforequoted excerpt finds support in at least 44 cases. To cite a few — City of Laoag vs. Public Service Commission, 89 SCRA 215, March 30, 1979; City of Tagbilaran vs. Lim, 52 SCRA 381, August 31, 1973; Ledesma vs. PSC, et al., 31 SCRA 805, February 27, 1970).

Parenthetically, the defunct respondent Public Service Commission was abolished by Presidential Decree No. 101 (1973) with the creation of the Board of Transportation which was later on replaced by the Land Transportation Commission as per Executive Order No. 1011 issued on March 20, 1985.

WHEREFORE, THIS PETITION IS HEREBY DISMISSED FOR LACK OF MERIT. COSTS AGAINST PETITIONER.

SO ORDERED.

Concepcion, Jr., Escolin, Cuevas, and Alampay, JJ., concur.

Aquino, (Chairman), and Abad Santos, JJ., no part.

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