

**ABLAZA TRANSPORTATION CO., INC., PETITIONER, VS. FELICIANO OCAMPO, GABRIEL PRIETO, AND QUINTIN PAREDES, JR., AS PUBLIC SERVICE COMMISSIONERS, AND PAMPANGA BUS CO., INC., RESPOND...***G. R. No. L-3563. March 29, 1951*

Ponente: REYES, J.

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This is a petition for certiorari to annul an order of the Public Service Commission, granting the Pampanga Bus Co., Inc., a provisional permit to operate "direct trips" between Hagonoy and Manila via Malolos.

For a background to the case, it should be stated that the Ablaza Transportation Co., Inc., and the Pampanga Bus are competing operators of TPU service between Manila and points north. Ablaza Transportations authorized line is Manila-Malolos-Hagonoy. That of the Pampanga Bus runs from Manila to points North as far as Pampanga. But in addition, this company is also authorized to operate a minor line between Hagonoy and San Rafael (both in the Province of Bulacan), which crosses its main line at Malolos. By linking its services on these two lines, Pampanga Bus may transport passengers from Hagonoy to Manila but has to transfer them at Malolos to its buses on the Manila-Malolos run. Conversely, passengers from Manila bound for Hagonoy have to be transferred at Malolos to the company's buses operating on the Hagonoy-San Rafael line. This is because Pampanga Bus has no express authority to make "direct trips" from Hagonoy to Manila and vice-versa.

Claiming that its certificate of public convenience for the operation of the two lines above mentioned gives it the option to reduce the headway between trips and shift buses from one line to the other, Pampanga Bus has, by means of these expedients, undertaken to transport passengers from Hagonoy to Manila and vice-versa without transfer at Malolos. This practice, however, was stopped when, as a result of a complaint filed by Luis G. Ablaza, the Public Service Commission ruled that Pampanga Bus may not "operate a direct TPU service from Hagonoy to Manila via Malolos, but it may, when operating its Manila-Malolos line, transfer any of its trucks to the Malolos-Hagonoy line but only when there is extraordinary heavy traffic between Malolos and Hagonoy." This ruling was upon appeal affirmed by this Court in its decision of May 31, 1949, in the case of Pampanga Bus Co., Inc., vs. Ablaza (83 Phil., 905; 46 Off. Gaz., Supp. No. 11, p. 354).

Following the promulgation of that decision the Pampanga Bus sought to legalize its direct service between Hagonoy and Manila via Malolos by applying for a certificate of public convenience to conduct that mode of operation. The application was opposed by the Ablaza Transportation, and following the regular procedure it was set for hearing and the applicant presented its evidence. But thereafter a continuance was granted and before hearing could be resumed for the reception of oppositor's evidence, the applicant filed an ex parte motion alleging immediate public necessity for the operation of the direct trips applied for between Hagonoy and Manila "on account of the many passengers who suffer inconvenience due to the transfer at Malolos from one bus to another of the same operator," and praying for a provisional permit for that purpose pending continuation of the hearing. The motion having been granted ex parte, the oppositor has brought the case here by certiorari, complaining that the Commission had deprived it of its day in court and exceeded its jurisdiction

in granting the provisional permit in question.

The order complained of says in part:

"Finding from an examination of the evidence presented by applicant that there is public need for authorizing: the service herein applied for temporarily, considering that the direct service proposed by the applicant will better serve public interests (Case No. 39737, Intestate Estate of Fernando Enriquez, Applicant, order of December 21, 1949), and is not a new service being only a readjustment of applicant's pre-war authorized service in order to avoid the inconvenience of transfer of passengers, and in consonance with the ruling made in Case No. 5780, (Philippine Farming Corp., Applicant, order of September 7, 1946) relative to the power of this Commission to issue provisional or special permit, the Commission believes that applicant's petition filed in this case may be, as it is hereby approved, and a provisional permit is hereby granted to the herein applicant, Pampanga Bus Company, to operate on the line Hagonoy (Bulacan)—Manila and vice-versa making direct trips in accordance with the time schedule presented in this case as Exhibit "J".

"In the operation of the direct trips.herein authorized, applicant shall follow the other terms and conditions prescribed in the provisional authority issued to applicant in Case No. 4658, in so far as they are applicable to the temporary authority herein granted.

"This temporary authority may be modified or revoked by the Commission at any time, and subject to whatever action that may be taken on the original applied (application) filed in this case, and that during the validity of this temporary authority, applicant shall desist from making connection service on the lines Hagonoy-Malolos and Malolos-Manila."

It is contended in the first place that the Commission may not issue a provisional permit pending final determination of an application for a permanent certificate, and the contention seems to find support in the case of *Barredo vs. Public Service Commission*, (58 Phil., 79), where this Court ruled that the issuance of such permit is not authorized by law. But we find that this ruling has already been modified, this Court having held in a subsequent case (*Javellana vs. La Paz Ice Plant, et al.*, 64 Phil., 893) that, where the case cannot be decided at once and the Commission issues a provisional permit to meet an urgent public need, the Commission does not thereby exceed its jurisdiction. In the present case, there is no denying the need for a prompt measure to do away with the transfer at Malolos, which constitutes a veritable nuisance to the travelling public. And considering that, with the case only half-finished, the decision is still remote, especially because of the various motions for postponement whereby, so it is alleged without contradiction, the oppositor "has been systematically causing the delay of the hearing," we believe that, in line with the ruling laid down in the *Javellana* case, *supra*, the issuance of the provisional permit in the present case is justified and does not constitute excess of jurisdiction.

The Ablaza Transportation, claiming to have monopoly of the direct service between Hagonoy and Manila via Malolos, contends that its business would be seriously affected by the issuance of the provisional permit here in question. But it would appear from the pleadings and other papers submitted that the service provisionally authorized does not involve an increase of trips or extension of service. As emphasized by the Commission, it "is not a new service, being only a readjustment of applicant's prewar authorized service in order to avoid the inconvenience of transfer of passengers" from one bus to another. Viewed in that light, the provisional permit complained of merely readjusts applicant's bus service to the exigencies of public welfare without posing a new threat to oppositor's established operation other than what may ordinarily be expected from a healthful competition.

Wherefore, the petition for certiorari is denied, with costs against the petitioner.

Paras, Pablo, Bengzon, Padilla, Tuason, Jugo and Bautista Angelo, JJ., concur.

**REYES, J.:**

I hereby certify that Mr. Justice Feria and Mr. Justice Montemayor voted for the denial of the petition.

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