

ROSA L. VDA. DE FARIÑAS, PETITIONER, VS. ESTATE OF FLORENCIO P. BUAN, RESPONDENT.

G.R. No. L-12306-7. November 29, 1961

Ponente: PAREDES, J.

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PAREDES, J.:

This is an appeal interposed by Rosa L. Vda. de Fariñas against a decision of the Public Service Commission in Case No. 91786, entitled Rosa L. Vda. de Farinas, applicant and PSC Case No. 46369-C, entitled Estate of Florencio P. Buan vs. Rosa L. Vda. de Farinas, the dispositive portion of which reads:—

"In view of the foregoing, and finding from the evidence submitted in this case that the respondent has failed to register seven of her authorized units and abandoned operation for more than three years, and that said abandonment was willful and deliberate and not due to any circumstance beyond the control of the respondent, and that the non-resumption of her service would not jeopardize public interest and convenience, the application for extension is denied and it is ordered that the lines of the respondent from Laoag-Manila, Pasuquin-Manila, Solsona-Manila, Laoag-Bangui, in Case No. 45290, and her lines Bacarra-Manila and Bacarra-Ilagan in Case No. 22663, be, as they are, hereby ordered cancelled. The respondent having admitted during the hearing of her application for extension of time to register that she only operates two trucks on the Laoag-Ilagan line, one of the units authorized for this line is therefore likewise ordered cancelled. Applicant, therefore, stands as being authorized to operate only two units on the lines Laoag-Ilagan, one unit on the Piddig-Manila line, and one unit on the line Laoag-Piddig".

The circumstances from which the present appeal stemmed may be summarized as follows:—

On November 17, 1955, Rosa L. Vda. de Fariñas filed an application for the registration of five (5) passenger trucks in addition to the four (4) already registered, which were authorized under Certificates of Public Convenience issued in Cases Nos. 15781, 22663 and 45290, with the following lines:—

Case No. 15781 (decided October 21, 1948) Laoag—Ilagan.

Case No. 22663 (decided June 4, 1948) Bacarra—Manila; Bacarra—Ilagan.

Case No. 45290 (decided June 23, 1952) Laoag—Manila; Pasuquin—Manila; Piddig—Manila; Solsona—Manila; Laoag—Bangui; Laoag—Piddig.

On April 14, 1956, the Estate of Florencio S. Buan filed in said Cases a petition to cancel some time schedules of Mrs. Fariñas (docketed as Case No. 46369-C), it appearing that while said Mrs. Farinas was authorized to register a total of eleven (11) units (buses) as early as 1948 and the latest 1952, she had registered only four (4) within the required period.

The application to register and the above petition to cancel some time schedules were heard separately. At the hearing, Mrs. Farinas admitted that at the time she testified (1956), she had only four (4) buses registered, under her different certificates of public convenience, although at times (from 1948 to 1952), she had seven (7) buses running on her lines; that she failed to maintain the number of units required of her in the certificates, due to

successive accidents met by her trucks and personal misfortunes; that she never intended to abandon any of her lines; that there was need for the additional trucks, because the volume of passenger traffic on the lines on which the 5 trucks would be used, warranted the operation thereof.

The Estate of Florencio S. Buan, operators of the "Philippine Rabbit" and later joined by the "Rural Transit", proved at the hearing of the Motion for Cancellation of Time Schedules of Mrs. Farinas, that there was abandonment of the lines pertaining to the trucks which remained unregistered and not operated from 1952 up to the date of the hearing. To support this contention, they pointed out to some admissions made by Mrs. Fariñas in the hearing of her application for authority to register five (5) trucks, and presented decisions of the PSC, denying the applications of persons and companies to operate along the same routes on which the five (5) additional trucks would be utilized (Exh. C, Santiago Sambrano, applicant, Cases Nos. 83474 "Amparo Quirino, applicant; 83874, Remedios T. Paredes & Antonio C. Amor, applicants; 86658, Maria de Leon, applicant; Exh. 3, Ilmatranco, Inc., applicant, Case No. 83161; Exh. 4, Lysander Gorgonio, applicant, Case No. 88639)".

In denying the application, the PSC gave the following reasons: (1) Mrs. Farinas had abandoned the operation of the other lines called for in her certificates, for failure to register the authorized units, and confining her operation only to Piddig-Manila and Laoag-Manila lines; (2) the PSC had already denied the application of other persons and/or companies to operate along said routes; (3) it had already authorized several operators to render additional service on the lines on which the 5 trucks would be operated; and (4) the abandonment was wilful and deliberate and not due to any circumstance beyond the control of Mrs. Farinas. These findings and conclusions are now assailed in the instant petition for Review. Finding that the PSC acquired jurisdiction over the subject matter and the decision appealed from is not contrary to law, We are only called upon to determine whether there was evidence presented before the Commission to reasonably support the decision, subject of the present petition (Sec. 35 of The Public Service Law).

There seems to be no question regarding the failure of Mrs. Farinas to register the complete number of units required by her certificates. Admittedly, from 1952 up to the date of hearing, (1956), she had only four (4) trucks in operation; out of the eleven (11) called for in her certificates. Of course, she tried to justify her failure to register and complete her equipment by the accidents that allegedly befell her, citing an accident in 1949 wherein she lost one truck, the burning of her house in Laoag in 1950, the accident on June 28, 1952 which claimed one truck and the lives of her granddaughter and daughter-in-law, closely followed by another accident on July 14, 1952, wherein she lost another truck. Petitioner alleged that she was so shocked and burdened by the successive accidents and misfortunes that she did not know what she was doing, she was confused and thrown off tangent momentarily; although she always had the money and the financial ability to buy new trucks or repair the destroyed ones which money (in the sum of P20,000.00) was being allegedly kept by her three sons. We do not consider the successive accidents and misfortunes mentioned by her, to be sufficient grounds to excuse petitioner from completing her units. If she had the money, she could have repaired the trucks or brought new ones from 1949 to the date of the filing of her application to register 5 buses. The personal disturbance cannot be said to be a circumstance beyond her control, so as to make the resulting abandonment of her service involuntary. For a supervening cause to be considered as such, the same must come from outside, such as, for instance, a real shortage in trucks or spare parts in the market, but not one resulting from the personal situation or feeling of the operator. Moreover, petitioner should have known that accidents are necessarily connected with transportation business and she should have provided for such eventuality. The requirement of financial stability of all applicants for certificates of public convenience, is a guaranty that at all times applicant should be in a position to cope with the obligations and responsibilities of the service, the maintenance of a complete number of units, as authorized, inclusive.

"We find no reason for disturbing this finding of the Commission for the same is based on a sound principle. A grantee of a certificate who fails to comply with his commitment for reasons which to the Commission do not appear justifiable, does not merit any grace on grounds of equity, for he should be deemed to have forfeited the privilege he has been granted. A public service operator assumes a commitment which cannot be taken lightly, nor be made dependent on whim or caprice, for behind it lies the paramount interest of the public. Public necessity cannot be made to wait, nor sacrificed for private convenience for, as the commission has aptly said 'an operator who unjustifiably abandons his service for two or three years by not registering the necessary equipment forfeits his right to said equipment and the service authorized to him. Such is the predicament of petitioner. She neglected her duty for three years in disregard of the interest of the public and such neglect amounts to a forfeiture.'" (Paredes vs. Public Service Commission, G. R. No. L-7111, May 30, 1955.)

On top of this, and assuming that petitioner really prevented by uncontrollable circumstances from operating her service or registering her complete equipment, still it has not been shown that she had, at any time, applied or petitioned for authority to suspend the operation of her service on her authorized lines or to defer registration of any of her units. For this omission or inaction, petitioner violated the rules of the Commission, which authorized it to suspend or revoke the certificates of petitioner (Sec. 16 [N], Act No. 146, as amended; Meralco vs. Pineda, G. R. No. 43632, Aug. 23, 1935).

Furthermore, the Public Service Commission found that there was abandonment on the part of Mrs. Farinas, an evaluation of fact which should not be disturbed, it appearing that same is reasonably supported by the evidence of record, both oral and documentary (Ynchausti Steamship Co. vs. Public Utility Commission, 44 Phil., 363).

In view hereof, the petition is dismissed, with costs against the petitioner. The decision appealed from, being in conformity with the evidence and law on the matter, is hereby affirmed in all respects.

Bengzon, C J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B, L., Barrera, Dizon, and De Leon, JJ., concur.

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