

PAMPANGA BUS COMPANY, INC., PETITIONER, VS. LUIS G. ABLAZA AND THE PUBLIC SERVICE COMMISSION, RESPONDENTS.*G.R. No. L-2108. May 31, 1949*

Ponente: REYES, J.

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This is a petition to review and set aside a decision of the Public Service Commission.

The facts are not in dispute. Pampanga Bus Co., Inc., (hereinafter called the Company) and Luis G. Ablaza are competing operators of auto-truck service. Ablaza's line is Manila-Hagonoy via Malolos, where he is authorized to operate five direct trips a day each way. We gather that "direct trips" mean through service, i. e., without transfer from one bus to another between terminals. The company has no express authority to conduct that mode of operation on Ablaza's line, although it is authorized to make trips between Manila and Malolos and also between Hagonoy and San Rafael via Malolos. For easy comprehension of the situation, it should be said that the Hagonoy-San Rafael line crosses the Manila-Malolos line at Malolos, and, roughly speaking, the two lines form at.

On January 28, 1948, Ablaza complained to the Public Service Commission that the company had encroached on his line by making direct trips between Manila and Hagonoy without authority. Answering the complaint, the company denied the alleged lack of authority and claimed that the operation objected to had long received official sanction. Deciding the controversy, the commission ruled that the company "has no authority, either by virtue of a certificate of public convenience or other form of authorization, to 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."

It is this ruling that is now before us for review, and the question for resolution is whether or not the commission hired in holding that the company is not authorized to operate a direct service between Manila and Hagonoy via Malolos.

In claiming authority for a direct service on this line, the company calls attention to a certificate of public convenience acquired by it, with the approval of the commission, from the Pasay Transportation Co., for the operation of a half-hourly service on the line Malolos-Manila and the line Hagonoy-San Rafael via Malolos, with option to reduce the headway to five minutes or less in case of extraordinary heavy traffic and "to transfer or exchange its cars from, one line to another." And it seems to be the contention of the company, as the commission puts it, "that by virtue of this authority it may dispatch a trip from Hagonoy bound for San Rafael, and because of its alleged right to transfer cars from one line to another, the truck leaving Hagonoy upon reaching Malolos may be transferred at Malolos to the Malolos-Manila line, thereby permitting a direct trip from Hagonoy to Manila. Also, a truck coming from Manila upon reaching Malolos may, in accordance with respondent's (herein petitioner) theory, be transferred to the Hagonoy-San Rafael line and proceed on a continuous trip to Hagonoy." In other words, in accordance with the company's contention, its trips on the Hagonoy-San Rafael and

Manila-Hagonoy lines, may, on the way, change direction as well as destination.

It seems to us that this would be converting a regular into an irregular operation, a decidedly backward step in the promotion of a transportation service. Gone are the days, it is to be hoped, of the irregular operation, an excusable evil in the infancy of the auto-truck transportation business but certainly an anachronism now after more than thirty years of State relementation. At least necessity has been shown for reverting to the old system.

There is no disputing the proposition that a direct service from Hagonoy to Manila and vice versa is more convenient to passengers travelling between those two points than a service that requires transfer at Malolos. But the fact should not be overlooked that Ablaza is already rendering such direct service. And while the company claims prior authorization for that same purpose, such claim is based on an erroneous interpretation of the extent and meaning of the authority granted. This is made clear by the following excerpt from the decision below, of which we approve:

"It could not possibly have been the intention to grant respondent authority to switch trucks at any point where two or more of its authorized lines cross inasmuch as such practice would subject passengers who take a truck at a given starting point to great inconvenience if they were required to transfer to another truck at a crossing point so that the truck which they originally boarded might be able to transfer to another line and proceed to a different terminal point. The authority to transfer or exchange cars from one line to another necessarily refers to cars or buses which upon reaching the terminal point of an authorized line are empty, in which case their transfer to another line or portion of that line would not cause inconvenience to any passenger. For instance, a truck leaving Manila for Calumpit and arriving at Malolos empty could be switched at Malolos and made to proceed to Hagonoy, in case of extraordinary heavy traffic, or in cases of emergencies, such as accidents, or fiestas, etc This is even a broad view of the authorization because it will be observed that while the five-minute headway is authorized in some of respondent's lines or portions thereof, the authorization regarding transfer or exchange of cars refers to transfer or exchanges from one line to another and makes no mention of portions of a line."

The plea is made that the company and its predecessor in interest, the Pasay Transportation Company, has been operating a direct service between Hagonoy and Manila since 1929 with the knowledge and tacit consent and even the protection of the commission, so that the said operation may be said to have become a vested right which may not be taken away during the life of the certificates sanctioning it. Cut as the commission rightly observes, only a certificate or an express authority issued by that body could vest in an operator the right to operate on a given line, so that the mere user of authority which is erroneously supposed to have been granted, even when tolerated by the commission, cannot ripen into a right that is beyond the power of the Commission to revoke when the error is discovered.

It may be added that the company's interpretation of its certificate would enable it to crowd Ablaza out of his line by running extra trips between Hagonoy and Manila on a five-minute headway as against Ablaza's schedule of one trip every half-hour. In that case, the company would practically have no time schedule, being, as it claims, authorized by its certificate to switch cars from one line to another and run trips at an interval of five minutes or less. Such a privilege if recognized would lead to confusion and ruinous competition, which is against the policy and intent of the Public Service Law.

We find no reason for disturbing the decision of the commission. The petition for review is, therefore, dismissed, with costs against the petitioner.

Ozaeta, Paras, Feria, Pablo, Perfecto, Bengzon, Tuason, and Montemayor, JJ., concur.

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