

**NARCEO SAMBRANO AND/OR MAURA TRANSIT CO., INC.,
PETITIONERS, VS. PUBLIC SERVICE COMMISSION AND PHILIPPINE
RABBIT BUS LINES, INC., RESPONDENTS.**

G.R. No. L-18459. September 29, 1962

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

This is a petition for certiorari and mandamus charging the Public Service Commission with having acted without, and/or in excess of, jurisdiction and/or with grave abuse of discretion amounting to want of jurisdiction for ordering, in the hearing of its Case No. 94417-C,

"* * * that the complainants (herein petitioners) can present evidence only with respect to violations allegedly committed by the respondent, and the respondent alone, within the period of sixty days immediately preceding the filing of the complaint * * *."

Herein petitioners, Narceo Sambrano and Maura Transit Co., Inc., filed with the Commission a complaint, dated August, 23, 1960, for cancellation or revocation of three (3) certificates of public convenience for auto-truck transportation of passengers and freight on the Laoag-Aparri, Aparri-Laoag, and Bacnotan-Aparri lines which have been consolidated in the name of the respondent, Philippine Rabbit Bus Lines, Inc. The complaint avers, among other things, non-operation of the Laoag-Aparri line by the respondents predecessor-in-interest, the Estate of Florencio P. Buan, since November 12, 1956, and that the line was operated by the respondent only in or about the first week of July, 1960; that the Aparri-Laoag and the Bacnotan-Aparri lines have never been operated by the respondent, or its predecessor, since the issuance of the respective certificates therefor sometime in 1952 or 1953, until the first week of July, 1960; all in violation of the terms and conditions of the certificates.

The respondent, Philippine Rabbit Bus Lines, Inc., met these allegations by invoking, in its answer, the 60-day prescription period for violations under Section 28 of the Public Service Act, which provides:

"Violations of the orders, decisions, and regulations of the Commission and of the terms and conditions of any certificates issued by the Commission shall prescribe after sixty days, and violations of the provisions of this Act shall prescribe after one hundred and eighty days."

While admitting its authority to operate the aforementioned three (3) lines, respondent Company claims that although these lines were bought by it from the Estate of Florencio P. Buan, the sale was approved by the Commission on February 22, 1960, by virtue of which the respondent was issued one new certificate for all the lines. It claims operation of the lines not from the first week of July, 1960 but earlier, and denies knowledge about the non-operation of the same by its predecessor-in-interest.

In the course of the hearing, the Public Service Commission issued the ruling, the dispositive portion of which is hereinabove quoted. On denial of a motion for reconsideration, the complainants brought the instant petition to this Court, and in their pleadings and briefs the main issues raised are the following:

- (1) May petitioners prove abandonment and non-user of the certificates in question committed outside the 60-day period of prescription provided in Section 28 of the Public Service Law?
- (2) May petitioners prove abandonment and non-user committed by respondent's predecessor-in-interest?
- (3) Are petitioners entitled to protection on equitable grounds?

This Court has already held, in *Collector of Internal Revenue, et al. vs. Buan*, G. R. L-11438; and *Sambrano vs. Public Service Commission*, G. R. L-11439 and L-11542, decided on July 31, 1958, that the 60-day prescriptive period fixed by section 28 of the Public Service Law is available as a defense only in criminal or penal proceedings filed under Chapter IV of the Act. Consequently, the Public Service Commission is not barred from receiving evidence of the prescribed violations for the purpose of determining whether an operator has or has not faithfully kept the conditions of his certificate of permit, whether he failed or not to render the services he is required to furnish to the customers, and whether or not the infractions are sufficient cause to cancel or modify the certificate. Proceedings of this kind are held primarily to ensure adequate and efficient service as well as to protect the public against the operator's malfeasances or abuses; they are not penal in character. True, the cancellation of the certificates may mean for an operator actual financial hardship; yet the latter is merely incidental to the protection of the traveling public. Hence, in refusing to admit evidence of prescribed violations as part of the complainant's case against the Philippine Rabbit Lines for a modification or cancellation of the latter's permit, we hold that the Commission committed error.

But we agree with the Commission that in proceedings for the cancellation of a certificate of public service, under section 16 (m) of the Public Service Act, a public service operator should not be made answerable for those of its predecessor's violations that were not made of record or brought to the attention of the Commission, either within the 60-days prescribed by section 28 of the Act or at the hearing for the approval of the transfer of the service. It would be inequitable to make the purchaser of a public service certificate answerable for violations of which it had no notice and could not ascertain upon examination of the records of the Commission, since it could not take them into account in deciding to acquire the operating lines. Moreover, the purchaser is entitled to an opportunity to improve the service, and the competing lines are not divested of protection and should not complain merely because an authorized line is conveyed to a better or more competent operator, since no competitor has a vested right to a monopoly.

The order appealed from is modified in the sense that the respondent Commission shall admit evidence of violations committed by the respondent Philippine Rabbit Bus Lines, Inc., even if no complaint against such violations were filed within 60 days from their commission. The exclusion of proof of violations committed by the previous operator is affirmed.

The records are ordered returned to the Public Service Commission for further proceedings in conformity with this opinion.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon, and Makalintal, JJ., concur.

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