

ELISEO SILVA, PETITIONER, VS. BELEN CABRERA, RESPONDENT.*G. R. No. L-3629. March 19, 1951*

Ponente: MONTEMAYOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/95bf818a8e09/>**MONTEMAYOR, J.:**

In the Public Service Commission Belen Cabrera filed an application for a certificate of public convenience to install, maintain, and operate in the City of Lipa, an ice plant with a 15-ton daily productive capacity and to sell the produce of said plant in several municipalities of Batangas province as well as in the City of Lipa. Eliseo Silva and Oplulenda & Lat, holders of certificates of public convenience to operate each a 5-ton ice plant, opposed the application on the ground that their service was adequate for the needs of the public, and that public convenience did not require the operation of the ice plant applied for by Cabrera. Instead of the Commission conducting the corresponding hearing in order to receive the evidence to be presented by applicant and oppositors, Commissioner Feliciano Ocampo by order dated July 14, 1949, commissioned Atty. Antonio H. Aspillera, Chief of the Legal Division "to take the testimony of witnesses" in this case pursuant to the provisions of section 32 of Commonwealth Act No. 146 known as the Public Service Act. Attorney Aspillera conducted hearings, and received extensive evidence, oral and documentary, the transcript of the stenographic notes taken consisting of 227 pages. Thereafter, the Commission in banc rendered a decision, the dispositive part of which reads as follows:

"In view of the foregoing, and finding from the evidence that public interests and convenience will be promoted in a proper and suitable manner by authorizing the applicant to operate a 10-ton ice plant in Lipa City, and that applicant is a Filipino citizen and is financially qualified to install and operate a 10-ton ice plant, the oppositions of Eliseo Silva and Oplulencia & Lat are hereby overruled, and a certificate of public convenience to operate a 10-ton ice plant in the City of Lipa is hereby granted to the applicant herein, Belen Cabrera, the said certificate to be subject to the following."

Eliseo Silva, one of the oppositors filed the present petition for review assigning two errors, to wit:

"Error I.—That section 3 prohibits a hearing before any person other than a Commissioner in contested cases; consequently, the delegation made by the Commission to Attorney Aspillera is illegal and contrary to law."

"Error II.—That the decision is not supported by evidence to warrant the Grant of the certificate to applicant-respondent Belen Cabrera."

We shall address ourselves to the first assigned error because the determination of the same disposes of this appeal. The legal point raised in this assignment of error was also raised before the Commission. At the beginning of the hearing before Attorney Aspillera, counsel for oppositor, Silva, now petitioner, asked that the hearing be had before one of the Commissioners because it was a contested case. When his petition was overruled, he made it of record that his continuing "with the hearing of this case shall not be understood as a waiver of our objection" (t. s. n., p. 3). It is therefore clear that petitioner is not raising this issue here for the first time.

While petitioner Silva contends that the delegation made by the Commission to Attorney Aspillera to take the testimony of witnesses was illegal and contrary to the provisions of section 3 of the Public Service Act as

amended by Republic Act No. 178, respondent equally claims that said delegation is perfectly proper and legal. It will be remembered that the delegation to receive testimony was made under the provisions of section 32 of the Public Service Act (Com. Act No. 146). Said section reads as follows:

"Sec. 32. The Commission may, in any investigation or hearing, by its order in writing, cause the depositions of witnesses residing within or without the Philippines to be taken in the manner prescribed by the Code of Civil Procedure. The Commission may also, by proper order, commission any of the attorneys of the Commission or chiefs of division to receive evidence, and it may likewise commission any clerk of the court of first instance or Justice of the Peace of the Philippines to take the testimony of witnesses in any case pending before the Commission where such witnesses reside in places distant from Manila and it would be inconvenient and expensive for them to appear personally before the Commission. It shall be the duty of the clerk of the Court of First Instance or justice of the peace so commissioned to designate promptly a date or dates for the taking of such evidence, giving timely notice to the parties, and on such date to proceed to take the evidence, reducing it to writing. After the evidence has been taken, the justice of the peace shall forthwith certify to the correctness of the testimony of the witnesses and forward it to the Commission. It shall be the duty of the respective parties to furnish stenographers for taking and transcribing the testimony taken. In case there are no stenographers available, the testimony shall be taken in long-hand by such person as the justice of the peace may designate. For the convenience of the parties the Commission may also commission any other person to take the evidence in the same manner."

For purposes of reference we are also reproducing the pertinent portion of section 3 of the same Act as amended by Republic Act No. 178, relied upon by the petitioner:

"All the powers herein vested upon the Commission shall be considered vested upon any of the Commissioners, acting either individually or jointly as hereinafter provided. The Commissioners shall equitably divide among themselves all pending cases and those that may hereafter be submitted to the Commission, in such manner and form as they may determine, and shall proceed to hear and determine the cases assigned to each; Provided, however, That (1) all contested cases, (2) all cases involving the fixing of rates, and (3) all petitions for reconsideration of orders or decisions shall be heard by the Commission in banc, and the affirmative vote of at least two Commissioners shall be necessary for the promulgation of a decision or a non-interlocutory order: And, provided, further, That in cases (1) and (2) the Commission may delegate the reception of the evidence to one of the Commissioners, who shall report to the Commission in banc, the evidence so received by him to enable it to render its decision." (Underlining is ours)

After examining the law, particularly the language used in sections 3 and 32, above-quoted, we agree with the petitioner that the delegation made to Attorney Aepillera, especially considering the manner in which he received the evidence, was contrary to the provisions of the Public Service Act.

The law (sec. 3) is clear that in a contested case like the present, only the Commission in banc is authorized to conduct the hearing, although said Commission may delegate the reception of the evidence to one of the Commissioners who shall report to the Commission in banc, the evidence so received by him.)

Under Commonwealth Act No. 146 before it was amended by Republic Act No. 178, the Public Service Commission consisted only of a Public Service Commissioner and a Deputy Commissioner. The Deputy Commissioner acted only on matters delegated to him by the Public Service Commissioner, and in case of the latter's absence, illness or incapacity, he acted in his stead. The Public Service Commissioner alone heard and disposed of all cases, contested and non-contested. There could therefore be no hearing or decision in banc. The Legislature in promulgating Commonwealth Act 146 evidently believed that one Commissioner, either the Public Service Commissioner or his deputy if properly commissioned, was sufficient to hear and decide even contested cases and cases involving the fixing of rates. Under said Commonwealth Act 146 before amendment, particularly section 32 thereof, the Commission besides authorizing the taking of depositions and the testimonies of witnesses

by clerks of courts of first instance and justice of the peace in the provinces, also authorized the reception of evidence by the Commission's attorneys and chiefs of divisions. Then came Republic Act 178 amending sections 2 and 3 of Commonwealth Act 146 making the Commission to consist of one Public Service Commissioner and two Associate Public Service Commissioners under the second section, and under section 3, as already seen from the reproduction of said section, requiring that all contested cases and cases involving the fixing of rates, be heard and decided by the three Commissioners in bane although the reception of evidence may be delegated to one of the Commissioners alone. The inference is obvious. In contested cases like the present, the Legislature did not wish to entrust the holding of a hearing and the reception of evidence to anyone but the three Commissioners acting in bane or one of them when properly authorized.

It is urged on the part of the respondent that the order of delegation in favor of Atty. Aspillera "was a mere authority 'to take the Ustimony of witnesses in the above-entitled case', which in fact is in the form of a deposition and not a reception of evidence, much less a hearing" (p. 9, brief for respondent), and so does not violate section 3. An examination of the record does not support this contention. What Atty. Aspillera did was to represent the Commission, act as a sort of Commissioner, conduct hearings, receive evidence, oral and documentary, and pass upon petitions and objections as they came up in the course of said hearing. He even addressed questions to the witnesses. He passed upon the competency and admissibility of exhibits and admitted them. In the transcript of the stenographic notes, Atty. Aspillera is repeatedly referred to as the "Commission" and the proceedings had before him on different dates as "hearings", (t. s. n. pp. 1, 3, 52, 62, 86, 90.) After the submission of the evidence Atty. Aspillera declared the "Case submitted", (t. s. n. p. 227.) It is obvious that the evidence received by Atty. Aspillera were not mere depositions or testimonies, and that his actuation was not that of a mere official like a justice of the peace receiving a deposition under the provisions of Rule 18 of the Rules of Court. The role played by Atty. Aspillera was rather that of a Commissioner under Rule 34 wherein he acted as a representative of the Commission that made the delegation to him, passed upon petitions and objections during the trial, either overruling or sustaining the same and ordered witnesses to answer if the objection to the question was overruled, and then making his findings and report to the body that commissioned him.

Respondent cites the case of Abel G. Flores, applicant vs. A. L. Ammen Transportation Co., Inc., oppositor, case No. 27141 of the Public Service Commission wherein the same point of the legality of a delegation to take testimony was involved. The oppositor in that case believing that the Commission exceeded its jurisdiction in making the delegation, brought the case to this Supreme Court under G. R. No. L-1637 but its petition for certiorari was dismissed for lack of merit. From this, respondent infers that even in contested cases the reception of evidence may be delegated to a person other than one of the Commissioners. We have examined that case and we find that the authority given there was not to receive evidence but to take a deposition and that the person delegated was a justice of the peace. We quote a portion of the order of Associate Commissioner Gabriel P. Prieto in that case:

"Es verdad que el articulo 3 de la Ley 178 claramente dispone que en los asuntos contenciosos y en los que envuelven la fijacion de tarifas la Comision solo puede delegar la reception de las pruebas a cualquiera de sus Comisionads. Pero tambien es cierto, que la deposicion no es una delegacion de la reception de las pruebas, porque al funcionario que la toma, la ley no le concede las facultades del tribunal que ha ordenado dicha deposicion. En efecto, la Regla 18 de los Reglamentos que regula esta actuacion, no autoriza al funcionario que toma la deposicion para resolver las cuestiones qae surgen o se suscitan durante su actuacion; no le faculta para hacer sus conclusiones de hecho o de derecho; ni le permite, siquiera, rendir informe o report de todo lo actuado. Su tfnica obligacion es certificar la declaration tal como ha sido prestada por el deponente. El que toma la deposicion no es como el arbitro o comisio-nado de que habla la Regla 34 de los Reglamentos, que actua por delegation y obra en representation del tribunal que le ha nombrado."

It will readily be noticed from the portion of the order above-quoted that Commissioner Prieto admits that under section 3 as amended, in contested cases and cases involving the fixing of rates, the Commission may delegate the reception of evidence only to one of the Commissioners and to no one else.

The respondent also calls our attention to the case of Cebu Transit Co. Inc., vs. Jereza, (58 Phil., 760), wherein this court held that the Commission was authorized to designate Commissioners for the purpose of receiving evidence, and that the law did not contain any prohibition. That case is inapplicable for at that time in the year 1933 when the case was decided, Republic Act 178 had not yet been promulgated, said Act having been passed only in 1947.

In conclusion, we hold that under the provisions of section 3 of the Public Service Act as amended by Republic Act 178, the reception of evidence in a contested case may be delegated only to one of the Commissioners and to no one else, it being understood that such reception of evidence consists in conducting hearings, receiving evidence, oral and documentary, passing upon the relevancy and competency of the same, ruling upon petitions and objections that come up in the course of the hearings, and receiving and rejecting evidence in accordance with said rulings. However, under section 32, of the same Act, even in contested cases or cases involving the fixing of rates, any attorney or chief of division of the Commission, a clerk of court of Courts of First Instance, or a Justice of the Peace, may be authorized to take depositions or receive the testimonies of witnesses, provided that the same is done under the provisions of Rule 18 of the Rules of Court.

We realize that our present ruling will greatly handicap the Public Service Commission and slow down its tempo in the disposal of contested cases and cases involving the fixing of rates, especially where the witnesses reside in the provinces; but where the law is clear, neither this court nor the commission may on grounds of convenience, expediency or prompt dispatch of cases, disregard the law or circumvent the same. The remedy lies with the Legislature if it could be convinced of the necessity of amending the law, and persuaded to approve a suitable amendment.

Finding that the delegation of the reception of evidence in this case as well as the exercise of the authority so given, are in violation of section 3 of the Public Service Act as amended, we set aside the order of delegation of July 14, 1949, and declare all the proceedings had thereunder to be null and void. Setting aside the decision appealed from, let this case be returned to the Public Service Commission so that evidence may be submitted by the parties in a hearing or hearings before the Commission in banc or before any of the Commissioners if properly authorized, unless of course, said parties agree at said hearing or hearings to re-submit the evidence already presented and taken down, with such modifications and under such conditions as they may agree upon, including such other evidence which they may wish to present. There is no pronouncement as to costs. So ordered.

Paras, Feria, Pablo, Bengzon, Padfla, Tuason, Reyes, Jugo and Bautista Angelo, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.